FUTURE TRADING IN GRAIN

HEARINGS

BEFORE THE

COMMITTEE ON AGRICULTURE AND FORESTRY
UNITED STATES SENATE

SIXTY-SEVENTH CONGRESS
FIRST SESSION

ON

H. R. 5676

TAXING CONTRACTS FOR THE SALE OF GRAIN FOR FUTURE DELIVERY, AND OPTIONS FOR SUCH CONTRACTS, AND PROVIDING FOR THE REGULATION OF BOARDS OF TRADE, AND FOR OTHER PURPOSES

Printed for the use of the Committee on Agriculture and Forestry

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FUTURE TRADING IN GRAIN.

FRIDAY, MAY 27, 1921.

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE AND FORESTRY,
Washington, D. C.

The committee met, pursuant to call, at 10.30 o'clock a. m., in room 112, Senate Office Building, Senator George W. Norris presiding.

Present: Senators Norris (chairman), Kenyon, McNary, Capper, Gooding, Keyes, Ladd, Norbeck, Ransdell, Kendrick, Harrison, and Caraway.

The CHAIRMAN. The committee will come to order. The committee has met, according to previous arrangement, for hearings on House bill 5676, a bill taxing contracts for the sale of grain for future delivery, and options for such contracts, and providing for the regulation of boards of trade, and for other purposes.

(The bill is here printed in full, as follows:)

[H. R. 5676, Sixty-seventh Congress, first session.]

AN ACT Taxing contracts for the sale of grain for future delivery, and options for such contracts, and providing for the regulation of boards of trade, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act shall be known by the short title of "The Future Trading Act."

SEC. 2. That for the purposes of this act "contract of sale" shall be held to include sales, agreements of sale, and agreements to sell. That the word "person" shall be construed to import the plural or singular and shall include individuals associations, partnerships, corporations, and trusts. That the word "grain" shall be construed to mean wheat, corn, oats, barley, rye, flax, and sorghum. The words "board of trade" shall be held to include and mean any exchange or association, whether incorporated or unincorporated, of persons who shall be engaged in the business of buying or selling grain or receiving the same for sale on consignment. The act, omission, or failure of any official, agent, or other person acting for any individual, association, partnership, corporation, or trust within the scope of his employment or office shall be deemed the act, omission, or failure of such individual, association, partnership, corporation, or trust, as well as of such official, agent, or other person.

SEC. 3. That in addition to the taxes now imposed by law there is hereby levied a tax amounting to 20 cents per bushel on each bushel involved therein, whether the actual commodity is intended to be delivered or only nominally referred to, upon each and every privilege or option for a contract either of purchase or sale of grain, intending hereby to tax only the transactions known to the trade as "privileges," "bids," "offers," "puts and calls," "indemnities," or "ups and downs."

SEC. 4. That in addition to the taxes now imposed by law there is hereby levied a tax of 20 cents a bushel on every bushel involved therein, upon each contract of sale of grain for future delivery made at, on, or in an exchange, board of trade, or similar institution or place of business, except—

(a) Where the seller is at the time of the making of such contract the owner of the actual physical property covered thereby, or is the grower thereof, or in case either party to the contract is the owner or renter of land on which the same is to be grown, or is an association of such owners, or growers of grain, or of such owners or renters of land; or

(b) Where such contracts are made by or through a member of a board of trade wl has been designated by the Secretary of Agriculture as a "contract market," as h inafter provided, and if such contract is evidenced by a memorandum in writing wl shows the date, the parties to such contract and their adresses, the property cov and its price, and the terms of delivery, and provided that each board member s keep for a period of three years from the date thereof and for such longer period as Secretary of Agriculture may direct a permanent record of such contract for fu delivery.

SEC. 5. That the Secretary of Agriculture is hereby authorized and directed to de nate boards of trade as "contract markets" when, and only when, such boards of tr comply with the following conditions and requirements:

(a) When located at a terminal market upon which cash grain is sold in suffici volumes and under such conditions as fairly to reflect the general value of the gr and the difference in value between the various grades of grain.

(b) When the governing board thereof provides for the making and filing of a rec and reports, in accordance with the rules and regulations and in such manner and fo as may be prescribed by the Secretary of Agriculture, showing the details and terms all transactions entered into by the board or the members thereof, either in cash gr or for future delivery, and which record shall at all times be open to the inspection any representative of the United States Department of Agriculture and United Sta Department of Justice, and such record shall be in permanent form and shall show t parties to all such contracts, any assignments or transfers of such contract, the parti to and terms of such assignments, and the manner in which said contract is fulfille discharged, or terminated.

(c) When the governing board thereof prevents the dissemination, by the board any member thereof, of fake, misleading, or inaccurate reports concerning crop market information or conditions that affect or tend to affect the price of commoditie

(d) When the governing board thereof provides for the prevention of the manipul tion of prices by the dealers or operators upon such board, including a reasonable lim tation upon the total quantity of grain of the same kind covered by contracts unfulfille or unsettled at any one time by or on behalf of the same person commonly called "ope trades" in speculative transactions.

(e) When the governing board thereof admits to membership thereof and all priv leges thereon on such boards of trade any duly authorized executive officer of any law fully formed and conducted cooperative association of producers having adequat financial responsibility: *Provided*, That any such association or its representative applying for admission to membership on a board of trade be able to and shall compl with and conform to all rules and regulations of such board if the same have the approva of the Secretary of Agriculture.

SEC. 6. That any board of trade desiring to be designated a "contract market shall make application to the Secretary of Agriculture for such designation an accompany the same with a showing that it complies with the above conditions, an with a sufficient assurance that it will continue to comply with the above requirements The Secretary of Agriculture is authorized to suspend for a period not to exceed si months or to revoke the designation of any board of trade as a "contract market upon a showing that such board of trade has failed or is failing to comply with th above requirements or is not enforcing its rules of government made a condition of it designation as set forth in section 5. Such suspension or revocation shall only b after a notice to the officers of the board of trade affected and upon a hearing: *Provided* That such suspension or revocation shall be final and conclusive unless within fifteen days after such suspension or revocation by the Secretary of Agriculture such boar of trade appeals to the circuit court of appeals for the circuit in which it has its principa place of business by filing with the clerk of such court a written petition praying tha the order of the Secretary of Agriculture be set aside or modified in the manner state in the petition, together with a bond in such sum as the court may determine, condi tioned that such board of trade will pay the costs of the proceedings if the court s directs. The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to the Secretary of Agriculture, and the Secretary o Agriculture shall forthwith prepare, certify, and file in the court a full and accurat transcript of the record in such proceedings, including the notice to the board of trade a copy of the charges, the evidence and the report and order. The testimony and evidence taken or submitted before the Secretary of Agriculture duly certified and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the circuit court of appeals shall be made a preferred cause and shall be expedited in every way. Such a court may affirm or set aside the order of the Secretary of Agriculture or may direct him to modify his order. No such order of the Secretary of Agriculture shall be modified or set aside by

the circuit court of appeals unless it is shown by the board of trade that the order is unsupported by the weight of the evidence or was issued without due notice and a reasonable opportunity having been afforded to such board of trade for a hearing, or infringes the Constitution of the United States, or is beyond the jurisdiction of the Secretary of Agriculture.

SEC. 7. That the tax provided for herein shall be paid by the seller, and such tax shall be collected either by the affixing of stamps or by such other method as may have been prescribed by the Secretary of the Treasury by regulations, and such regulations shall be published at such times and in such manner as shall be determined by the Secretary of the Treasury.

SEC. 8. That the Secretary of Agriculture may make such investigations as he may deem necessary to ascertain the facts regarding the operations of future exchanges and may publish from time to time, in his discretion, the results of such investigation and such parts of reports made to him under this Act, and such statistical information gathered therefrom, as he may deem of interest to the public.

SEC. 9. That any person who shall fail to evidence any such contract by a memorandum in writing, or to keep the record, or make a report, or who shall fail to pay the tax, as provided in sections 4 and 5 hereof, or who shall fail to pay the tax required in section 3 hereof, shall pay in addition to the tax a penalty equal to 50 per cent of the tax levied against him under this act and shall be guilty of a misdemeanor, and upon conviction thereof be fined not more than $10,000 or imprisoned for not more than one year, or both, together with the costs of prosecution.

SEC. 10. That if any provision of this act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the act and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 11. That no fine, imprisonment, or other penalty shall be enforced for any violation of this act occurring within sixty days after its passage.

SEC. 12. The Secretary of Agriculture may cooperate with any department or agency of the Government, any State, Territory, district, or possession, or department, agency or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees, not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, telegrams, telephones, law books, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this act in the District of Columbia and elsewhere, and there is hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for such purposes.

Passed the House of Representatives May 13, 1921.

Attest: WM. TYLER PAGE,
Clerk.

Mr. Morrill, of the Department of Agriculture, is present. He has to leave town shortly, and I have asked him to come up here and be heard by the committee.

Senator KENYON. Mr. Chairman, is this the bill that was passed by the House?

The CHAIRMAN. Yes.

Senator KENYON. Is this in the exact form as passed by the House?

The CHAIRMAN. Yes. We would like to hear Mr. Morrill now.

STATEMENT OF MR. CHESTER MORRILL, ASSISTANT CHIEF OF THE BUREAU OF MARKETS, DEPARTMENT OF AGRICULTURE.

The CHAIRMAN. Mr. Morrill, the committee will be glad to hear you discuss in your own way this bill which is now before the committee. First give your name for the record.

Mr. MORRILL. My name is Chester Morrill, assistant chief of the Bureau of Markets of the Department of Agriculture.

This bill was introduced in the House, or, rather, the bill upon which this is based, was introduced in the House by Mr. Tincher,

and the corresponding bill was introduced in the Senate by Senator Capper.

After the bill had been considered by the House Committee on Agriculture for some time, a committee substitute for the original Tincher bill was formulated, and then the Secretary of Agriculture was invited to appear before the committee to discuss future trading with special reference to the Tincher bill. He appeared before the Committee on Agriculture on May 2 and his remarks are contained in series C of the volume of hearings on future trading of the Committee on Agriculture of the House of Representatives.

Senator McNary. At page 325.

Mr. Morrill. At page 325.

In view of the fact that the Committee on Agriculture had formulated a tentative bill, the Secretary addressed his remarks and suggestions to that bill, which has become the bill you have before you.

Senator McNary. May I interrupt you to ask you a question at this point?

Mr. Morrill. Yes, sir.

Senator McNary. So that we may get it into the record?

Mr. Morrill. Yes, sir.

Senator McNary. I have read the testimony of Secretary Wallace and he has suggested various amendments to the committee. Were they, or at least a portion of them, incorporated into the bill, and are they to be found there now since its passage through the House?

Mr. Morrill. The amendments which the Secretary suggested were incorporated in the bill, and, I think, are all in the bill as it passed the House except that the committee, after hearing Secretary Wallace, made some slight changes in phraseology, and at least one substantial change was made on the floor of the House afterwards. So that the bill as you see it here is not precisely the bill which was under consideration by the committee at the time that Secretary Wallace appeared before the committee.

Senator Capper. May I ask Mr. Morrill if he can tell us what material changes were in the bill reported by the committee; that is, how does it differ from the bill that was introduced originally by me here and by Mr. Tincher in the House?

Mr. Morrill. Yes. The bill as originally introduced by you and Mr. Tincher applied to all transactions for future delivery, whether made on or off the future exchanges; that is to say it imposed a tax upon all transactions for future delivery made either on or off future exchanges, and provided certain exemptions, which were set out in subdivisions (a) and (b) of section 4 of this bill.

Section 3 of this bill remains very largely as it was originally, with some changes in phraseology, and was designed, through the means of a tax, which would probably be prohibitive, to stop all trading in what are known as "privileges," "bids," "offers," "puts and calls," "indemnities," and "ups and downs."

Then a second form of the tax, of the same amount as imposed upon these "privileges" and "bids", etc., was imposed upon all transactions for future deliveries of grain with the two exceptions which I have just mentioned in (a) and (b).

That tax, as I said before, was not limited to transactions in futures, or what we commonly call future trading. It applied to all sales for future delivery.

It was at this point that the Secretary suggested, as you will see in the record of the hearings, that that tax be limited to transactions at, on or in an exchange, board of trade, or similar institution or place of business, following, in that respect, the language of the cotton futures act, so as to make it applicable to future trading as such, wherever it might be conducted, as distinguished from transactions which might be made for forward delivery or forward shipment, such, for example, as an exporter might enter into obligating himself to ship a certain amount of grain three months hence, which would be a transaction for future delivery, but which the Secretary thought was not really intended to be governed by this bill. Therefore, he proposed an amendment limiting section 4 to the exchanges, and the committee adopted that amendment and redrafted it just as he proposed it.

Then, the first exception to that tax was set out in subdivision (a), and went this far. I will read as far as it went:

Where the seller is at the time of the making of such contract, the owner of the actual physical property covered thereby, or is the grower thereof, or in case either party to the contract is the owner or renter of land on which the same is to be grown, * * *

The Secretary suggested an addition, which was adopted:

* * * or is an association of such owners, or growers of grain, or of such owners or renters of land.

In order to take care of a group, as distinguished from an individual.

Senator McNary. That takes care of cooperative organizations?

Mr. Morrill. That is designed to take care of the cooperative organizations; yes.

Now, the second exception was in subdivision (b), and subdivision (b) was differently worded in the original bill, but before the Secretary was heard upon it a change was made.

I do not have before me a copy of the original Tincher Bill.

The Chairman. Well, if it is important, Mr. Morrill, we can supply you with that. We have it here.

Senator Capper. Yes.

Senator McNary. Yes.

Mr. Morrill. I will not enter into that, unless you want me to continue the answer to the question on that point.

Senator McNary. Well, that is the same bill.

Mr. Morrill. The reason I am going on with this is because Senator Capper asked me to analyze the differences in the bill.

The Chairman. Those who want to follow Mr. Morrill can turn to Calendar No. 12. Calednar No. 12 is the bill originally introduced by Mr. Capper in the Senate, which was the same as the bill introduced in the House by Mr. Tincher.

Mr. Morrill. Subdivision (b) in the original Capper-Tincher bill started out in this way:

That persons who are at the time of the making of the contract, regularly engaged in the business of growing, dealing, in or manufacturing grain or grain products may enter into contracts for future delivery, if such contracts are made by or through a member of a board of trade which has been designated by the Secretary of Agriculture as a "contract market," etc.

At the time that bill was under consideration by the committee, or by the Secretary of Agriculture, a change had been made, striking

out the first part, in the first four lines, so that it reads as you see it in the form you have before you now.

Senator McNary. What was the reason for that change?

Senator Capper. That change was made by the House Agricultural Committee?

Mr. Morrill. Yes.

Senator McNary. Why was that change made?

Mr. Morrill. One of the reasons seemed to be that there had been a discussion in the committee as to what was meant by "dealing in," and they felt that probably that let in everybody, anyhow, and therefore they struck out the whole limitation.

I think that also the committee had definitely reached the conclusion that they did not want to prohibit speculation on the exchanges; at least, it was very clear in the course of the discussion that they had reached that conclusion, that they were not trying to prohibit speculation.

Now, evidently the thought behind the original language was that it would be desirable to cut out the pure speculator; that is to say, by "pure speculator" I mean a person who has no contact with the cash grain business as such. Of course it is admitted that a great deal of speculation is carried on by people who are in the grain business, and I think the committee probably reached the conclusion that they were probably as great speculators as those who were on the outside. Therefore they did not want to make any distinction or limitation.

I am merely surmising this from the discussion which surrounded the Secretary's remarks, and I was present listening to them.

Anyway, the committee had decided on this form of language.

Now, the effect of subdivision (b) is to exempt from the tax imposed on contracts as now made on the future exchanges all the contracts made through members of boards of trade that comply with the five specified conditions set out in section 5. If the board of trade complies with those five specified conditions to the satisfaction of the Secretary of Agriculture, then the subsequent effect of the bill is that that future trading goes on without other restriction than that contained in those five requirements.

One thing that was pointed out by the Secretary of Agriculture in connection with the previous suggestion that the tax should be limited to the boards of trade and exchanges was that section (b) made it mandatory that the transactions for future delivery that were exempt from tax be conducted through members of boards of trade, which would take the handling of the cash grain business for future delivery out of the hands of individuals and compel them to handle their business through boards of trade.

That, I presume, was not the intention at all, but it had that effect.

The Chairman. Well, that is eliminated now.

Mr. Morrill. That is eliminated now, and the bill takes care of that situation. I am trying to develop the history of this thing and to show you just how it comes to you in this way now.

Senator Gooding. So that the boards of trade that come under the exceptions or are designated contract markets by the Secretary are practically taken out of any legislation——

Mr. Morrill. No.

Senator GOODING (continuing). Except as they come under section 5?

Mr. MORRILL. Yes; the regulations with which they must comply are in section 5.

Senator CARAWAY. What restriction does that place upon them?

The CHAIRMAN. Before you answer that question, I think this question ought to be answered first, if the Senator will permit me to ask it first.

Senator CARAWAY. Yes, sir.

The CHAIRMAN. A board of trade that complies with the conditions prescribed in section 5 has no occasion to pay attention to any other part of this regulatory bill; is that right?

Mr. MORRILL. That is true; but the things in section 5 plus one or two things in subdivision (b) of section 4 are the things that the boards of trade are complaining about.

The CHAIRMAN. I understand that, but I want to get the scope of the bill.

Mr. MORRILL. Yes.

The CHAIRMAN. If the boards of trade comply with the conditions laid down in section 5, they have no other conditions imposed upon them?

Mr. MORRILL. That is true.

The CHAIRMAN. Now, Senator Caraway.

Senator CARAWAY. I did not want to take it up out of the regular order, but I just read the conditions contained in section 5, and outside of a mere promise to be good, I do not see anything that prevents them from engaging in pure gambling.

The CHAIRMAN. Mr. Morrill, suppose you take up first section 5 and discuss that.

Mr. MORRILL. The theory upon which the bill proceeds is that transactions for future delivery on exchanges, boards of trade, and like places, can only be conducted free from tax on boards of trade which are designated as "contract markets," and in order to be designated as "contract markets," they must comply with all of the requirements of section 5, not only initially, but continually, because in section 6 authority is given to the Secretary of Agriculture to deprive a board of trade of its designation as a contract market, either temporarily or permanently, and when that designation is taken away the tax immediately falls upon the transactions, if any, that are conducted thereafter on that board of trade, the tax being, in its amount, prohibitive, the effect would undoubtedly be that no transactions would be conducted thereafter.

Senator KENYON. Well, that is up to the Secretary of Agriculture to determine?

Mr. MORRILL. Yes, sir. Of course, the things which he decides are set out in the law.

Senator KENYON. But he is the judge of whether they are complied with?

Mr. MORRILL. Yes. There is, however, a provision for an appeal to the courts.

Senator KENYON. Where is that?

The CHAIRMAN. Yes; that would be necessary.

Mr. MORRILL. That is in section 6.

The CHAIRMAN. Now, suppose you take up section 5, Mr. Morrill, and discuss what is necessary for compliance with that section?

Mr. MORRILL. Section 5 says:

That the Secretary of Agriculture is hereby authorized and directed to designate boards of trade as "contract markets" when, and only when, such boards of trade comply with the following conditions and requirements.

The first one is contained in subdivision (a):

When located at a terminal market upon which cash grain is sold in sufficient volumes and under such conditions as fairly to reflect the general value of the grain and the difference in value between the various grades of grain.

In the original bill there is a clause that was stricken out at the Secretary's suggestion, and there seemed to be no particular question about it. The words "unaffected by local conditions" were in the original bill, which read this way:

(a) Terminal markets upon which cash grain is sold in sufficient volume and under such conditions as fairly to reflect the general value of the grain, unaffected by local conditions, and the difference in value between the various grades of grain.

The words "unaffected by local conditions" were stricken out by the House Committee on Agriculture.

The reason for that was that it would seem that there was hardly a market in the country that would not be affected by local conditions at one time or another. That is particularly true of Chicago. Sometimes you have a material difference between cash and futures, because there is either an oversupply of cash grain or an undersupply lf cash grain, as compared with the normal supply.

Now, subdivision (b) contains the second condition:

When the governing board thereof provides for the making and filing of a record and reports, in accordance with the rules and regulations, and in such manner and form as may be prescribed by the Secretary of Agriculture, showing the details and terms of all transactions entered into by the board or the members thereof, either cash grain or for future delivery, and which record shall at all times be open to the inspection of any representative of the United States Department of Agriculture and United States Department of Justice, and such record shall be in permanent form and shall show the parties to all such contracts, any assignments or transfers of such contract, the parties to and terms of such assignments, and the manner in which said contract is fulfilled, discharged, or terminared.

Senator CARAWAY. Let me ask you this question, Mr. Morrill: What is the object of closing it to everybody except those departments by specifically pointing them out as the parties who are to make examination? That, of course, would exclude everybody else.

Mr. MORRILL. That was not discussed during the time that Secretary Wallace appeared before the committee. It had been decided upon before the Secretary appeared, and I do not know what considerations led to that change. I believe the original bill provided that it should be open to inspection by any representative of the United States Government, and my impression is the committee thought that that was too broad; that they wanted some limitation somewhere on the authority of employees of the United States Government to examine these books.

Senator CARAWAY. Well, may I ask you just one other question, Mr. Morrill, if the chairman will permit me?

Mr. MORRILL. Yes.

Senator CARAWAY. What was the object in excluding private parties from knowing anything about it?

Mr. MORRILL. I have never heard the suggestion advanced that private parties should be allowed to examine the books. I do not know that there was any discussion of the idea.

The CHAIRMAN. Now, Mr. Morrill, does it look to you that we ought to enlarge that by providing for the inspection of those books by some other representatives? Let me put a case to you. Suppose complaint were made before the Federal Trade Commission of unfair competition or something of that kind. Under the general law they have the right to inspect the books and examine all the transactions. Would this law, if passed, with these limitations in it, have the effect of repealing that authority, so that the Federal Trade Commission could not examine their books?

Mr. MORRILL. No, sir; it would not in any way limit the existing authority of the Federal Trade Commission. This is an extension of the control of the Government instead of a limitation of that control.

The CHAIRMAN. I know, but it is true that in paragraph (b) it is said that the records shall at all times be open to the inspection of any representative of the United States Department of Agriculture and United States Department of Justice. Now, in view of the fact that it was said that they have the right to make that examination, do you not suppose that the courts would hold that that excluded any representative of any other branch of the Government from making an examination?

Mr. MORRILL. No, sir; I do not think that would in any way limit the Federal Trade Commission act at all. All the authority they have under their law would continue to operate, regardless of the authority granted under this law in that respect. In other words, this gives to the representatives of the United States Department of Agriculture and the United States Department of Justice the power to examine these records for the purpose of seeing that this law is carried out, but it does not in any way deprive the Federal Trade Commission of its authority to enforce the Federal Trade Commission act.

Senator CARAWAY. But do you not think that where you specifically designate certain agencies to make that examination it excludes those not mentioned?

Mr. MORRILL. This law does not purport to cover the provisions of the Federal Trade Commission act in any way at all.

The CHAIRMAN. Well, there certainly would not be any objection, would there, if, as a matter of precaution, we enlarge that?

Mr. MORRILL. I do not know of any objection.

The CHAIRMAN. Or to put it in more general terms, so that it would include what you have in here and any other agencies of the Government that are provided by general law for the investigation of the books, records, and papers of any corporation or individual?

Mr. MORRILL. I would say that if you extended it you ought to place some limitation, either of the kind that you have suggested or upon the department that would have the power. I would say that it would not be advisable to open it up generally to every representative of the United States Government without regard to his duties.

The CHAIRMAN. If we should limit it by saying that they should be subject to examination by the representative of any governmental

department or by any Government official whose authority depended upon any other law or any other act of Congress besides this——

Mr. MORRILL. May I make this suggestion—and it is purely a suggestion, because that is a matter of policy for the committee to determine, but we hear from time to time a great deal of complaint of repeated visits by Government representatives, each on a different errand, to the same business house or to the same place for information. The complaint is made that the Government ought to find some way to get all of this information at one time, if that is possible. Now, of course, that is not possible, yet the opening up of this does afford the opportunity to raise that question, whether it does not permit a lot of different people to come in and make an examination of the books.

The CHAIRMAN. What harm would come to a board of trade if this were enlarged in that way?

Mr. MORRILL. I do not know of any harm at all, and I did not mean to imply that in the suggestion I was making. I was merely pointing out the objection that they make to these things.

Senator MCNARY. The direct authority is given in the statutes creating the Federal Trade Commission to examine records of this character, and this general legislation could not repeal the act conferring that authority upon the Federal Trade Commission.

The CHAIRMAN. I confess that I have doubts about that, and I do not want to put anything in the statutes that would even cause a doubt, which might give rise to litigation, causing a delay in the making of the investigation that ought to take place.

Mr. MORRILL. That, of course, is a matter for the committee to decide, and there are a number of lawyers on the committee.

The CHAIRMAN. I would like to ask another question in regard to that, particularly paragraph (b). Would it not be feasible to provide, as we have in other statutes in reference to other corporations, where we have provided by law for an examination into the books, to also provide that in this case the Secretary of Agriculture should have the right and authority, if he saw fit to do so, to provide methods of bookkeeping or methods of keeping documents and accounts?

Mr. MORRILL. I would suggest that if you were to go so far as to specify that, you should do it only in cases where the books are so kept that they do not show all the facts that are necessary.

The CHAIRMAN. Well, of course, the object in making a provision of that kind is to meet just that kind of a condition.

Mr. MORRILL. Yes. The thing I had in my mind was this, that there are so many different sizes of business affected by such a law as this, and a very large business needs a great deal more detail in its accounts than a very small business. A small business can get along with much less in its records than a large business and still furnish you all the information you need. The question that you are raising was brought up in connection with the packer bill before the House Committee on Agriculture, whether they should provide the authority in the Secretary of Agriculture to make the initial requirement that books shall be kept in a certain way, or whether they should give him any authority as to the form of the books, or whether they should try to get at it in some compromise fashion. They finally decided, on account of the different kinds of books that they would have to deal with, that they should make the initial

requirement that the books be so kept as to show all the essential facts, and that in case the Secretary found that the books were not being properly kept so as to show the facts, then he might prescribe the kind of accounts they should keep in order to show the facts.

Senator CAPPER. The bill gives the Secretary of Agriculture pretty broad powers in laying down rules and regulations, does it not?

Mr. MORRILL. Yes.

Senator CAPPER. Of course they can not require the boards of trade to disclose their process of doing business.

Mr. MORRILL. As a matter of fact, this subdivision (b) probably gives the authority to the Secretary of Agriculture to do what you want to do, because it says:

When the governing board thereof provides for the making and filing of a record and reports in accordance with the rules and regulations and in such manner and form as may be prescribed by the Secretary of Agriculture——

The CHAIRMAN. Yes; that probably covers it.

Mr. MORRILL. Now, it is my understanding that some of the representatives of the grain exchanges feel that in subdivision (b) of section 4 and in this subdivision (b) of section 5 the requirements are burdensome and drastic and perhaps impose a duplication of work on the grain exchanges.

A number of them visited the Secretary of Agriculture a few days ago for the purpose of advancing their objections, and decided that they would formulate changes that would meet their ideas and submit them to the Secretary. They have not done that yet, so far as I know. The Secretary's attitude about it was simply this——

Senator MCNARY. Pardon me there, but did you say subdivision (b) of section 4 and subdivision (b) of section 5?

Mr. MORRILL. Yes, sir; both of those subdivisions.

Senator MCNARY. Thank you.

Mr. MORRILL. That there should be ample power in the hands of the Secretary to get all the information necessary to enforce this law and so that he would know exactly how operations are being conducted on the future exchanges, but he did not want to be in the position of advocating duplication or unnecessary details. His attitude with the gentlemen who appeared before him was that he would consider any objections they made and give his opinion on them.

I merely speak of that because perhaps the representatives of the boards of trade will make some suggestions to your committee along those lines.

Senator KENDRICK. Mr. Morrill, do you not think that, without any regard to whether we include the chairman's suggestion as an amendment, we should limit it to Government officials?

Mr. MORRILL. Yes, sir; I do.

Senator KENDRICK. All right, sir. I think so, too.

Senator MCNARY. Mr. Chairman, may I ask you whether we are to have the Secretary of Agriculture here during the hearings?

The CHAIRMAN. I have not formally invited him, but I intended to do so. It was due to an oversight that I have not done it.

Mr. MORRILL. May I say this? The Secretary will be very glad to assist the committee in any way that it desires and will be glad to discuss the bill if you wish.

The CHAIRMAN. Mr. Morrill, I wish when you go back to the office you would state to the Secretary that the committee would be glad to have him here during the hearings as much of the time as he can spend here, or to have any representative present, so that he may hear the debate and make any suggestions that he may see fit.

Mr. MORRILL. Yes, sir. Mr. Fitts, who has been with the Secretary for some time, and who is now associated with me, is attending this hearing. As far as the Secretary himself is concerned, you, of course, appreciate the fact that he has a great many duties which take up a great deal of his time.

The CHAIRMAN. Oh, yes; we should not expect him to stay here.

Mr. MORRILL. He would be very glad to come up here for the purpose of discussing the bill at any particular time that you might indicate, but I think he would not be able to stay with you except for that purpose.

The CHAIRMAN. Now, if you are through with the subdivision (b), take up subdivision (c), Mr. Morrill.

Mr. MORRILL. Subdivision (c) is, I think, almost exactly the way it was originally. It provides that—

> When the governing board thereof prevents the dissemination, by the board or any member thereof, of fake, misleading, or inaccurate reports concerning crop or market information or conditions that affect or tend to affect the price of commodities.

Senator KENYON. What is meant by the word "fake" there?

Mr. MORRILL. Some one raised the question in the House Committee on Agriculture as to what they meant by "fake," and some one suggested that the word "false" be substituted for it.

Senator CAPPER. That was a mistake on the part of the stenographer who prepared this bill. Originally the bill contained the word "false." It was just a clerical error.

Senator GOODING. What is the difference between "false" and "fake"? They have the same meaning.

Senator CARAWAY. Senator Capper, let me ask you this question: I do not know anything about what the fact is; I do not know anything about all of the members of the exchanges themselves giving out information, but there is nothing in here to prevent other agencies from throwing out all of the misinformation that they care to.

Senator CAPPER. Probably not.

Senator CARAWAY. In other words, it just simply prevents the member himself from proclaiming that certain conditions exist, but it does not prevent any agency that he may employ from giving all the information that he may see fit.

Senator CAPPER. But it gives the Secretary of Agriculture an opportunity to keep in touch with the situation and to go carefully into any complaints that might arise along that line and to put a stop to it, if he finds it necessary.

Senator CARAWAY. Then, suppose the newspapers come out with the statement that there is a drought in certain sections of the country, or that there are grasshoppers, or that there is a hot wind, and the crop is being destroyed. The Secretary of Agriculture can not prevent that, and yet it might be inspired directly by some speculator or board of trade.

Senator CAPPER. That would be rather difficult to handle.

Mr. MORRILL. If that were traceable back to a member of the board, the Secretary might be able to deal with it, because subdivision (c) requires that the governing board——

Senator CARAWAY. Well, I concede that, if you can prove that they did it, but it looks to me like putting up a straw man here.

Senator CAPPER. But that is not the way that they have been influencing the market, Senator, as far as I have been able to observe it. They have issued propaganda and have had the machinery under their control, aside from newspaper reports, that has enabled them to bring about violent fluctuations of the market, and this attempts to get at that vicious practice.

Senator GOODING. And it may be on one side or it may be on the other side, Senator.

Senator CAPPER. Yes.

Senator HARRISON. Well, if the grasshoppers got busy, that ought to help the price.

The CHAIRMAN. All right; go ahead, Mr. Morrill.

Mr. MORRILL. The next condition, the fourth one, is contained in subdivision (d), that—

When the governing board thereof provides for the prevention of the manipulation of prices by the dealers or operators upon such board, including a reasonable limitation upon the total quantity of grain of the same kind covered by contracts unfulfilled or unsettled at any one time by or on behalf of the same person commonly called "open trades" in speculative transactions.

The part beginning with the words "including a reasonable limitation" was not in the original Capper-Tincher bill, but was placed there as a result of suggestions made by the Secretary of Agriculture, the thought being that the control of the market by speculative interests may occur through the volume of trading that may be concentrated in the hands of one person at one time, or, rather, not so much the volume of trading as the volume of open trades that may be concentrated.

The CHAIRMAN. The added words there would have the effect, I presume, of giving to the Secretary of Agriculture a very wide discretion in deciding what would be a reasonable limitation. If he fixed the amount of unfulfilled contracts, that would be another thing about which opinions might widely differ.

Mr. MORRILL. The original language is very, very broad. It is:

When the governing board thereof provides for the prevention of the manipulation of prices by the dealers or operators upon such board—

And it was within the power of the Secretary to decide whether they had met that condition.

Now, this provides for a specific thing as a means of preventing manipulation; that is to say, some limit on the volume of open or unsettled trades.

The CHAIRMAN. Many of the bills that have been introduced on this subject have fixed definitely that limit, as I have found.

Mr. MORRILL. Yes.

The CHAIRMAN. What is your view and the view of the Agricultural Department in regard to fixing in the statute a limit?

Mr. MORRILL. The Secretary was asked about that. In the first place, the suggestion was made at first that a specific quantity,

1,000,000 bushels, for example, be named there; instead of saying "a reasonable limitation," a limitation of 1,000,000 bushels.

Senator GOODING. By one individual?

Mr. MORRILL. Oh, yes; by one individual.

The CHAIRMAN. At one time?

Mr. MORRILL. At one time. That does not in any way limit the total number of sales that he may make.

The CHAIRMAN. No.

Mr. MORRILL. During the course of a year or a month or a day. He must not have a net open position in speculative transactions of more than a certain quantity at any one time.

The CHAIRMAN. Now, I wish you would tell the committee, not only for their benefit, but for the benefit of anyone who may read the hearings or who may study the question, just why it is desirable to make any limitation.

Mr. MORRILL. The reason for that is this, that the ordinary speculation is conducted in very small quantities by a large number of people and does not represent a control of the market, but a very large speculator, with unlimited finances behind him, may sell in large quantities or buy in large quantities, and hold his transactions open for the definite purpose of forcing the market up or down, until he accomplishes his purpose of making a profit. Opinions are varied as to what limitation might be placed upon that sort of business. I have heard suggestions all the way from 200,000 bushels up to 1,000,000 bushels.

Senator MCNARY. Mr. Morrill, right there, did not the Food Administration during the war place a limit of 200,000 bushels upon it?

Mr. MORRILL. On speculative transactions in corn.

Senator MCNARY. Oh, in corn?

Mr. MORRILL. Yes. And Mr. Hoover appeared before the House Committee on Agriculture, and he was asked whether that worked all right, and he stated that in his opinion it did. Of course, I presume the grain exchanges would say that there were special conditions existing during the war, and that other things, really, controlled the market than such a thing as that limitation; but it is a fact that they had the limit, and it did not appear to do any harm.

Now, we are not advocating a limit of 200,000 bushels. Perhaps that would be too drastic. I do not know. I do not think that anybody is in a position to say what that limit ought to be in exact terms.

Senator CAPPER. Because the conditions are different in different markets?

Mr. MORRILL. Yes.

Senator CAPPER. That is, the conditions in Chicago would be different from those in Kansas City?

Mr. MORRILL. Yes.

Senator CAPPER. And it would be pretty hard to fix a limit to apply to both cities. That is the problem to meet in that proposition.

Mr. MORRILL. Yes.

Senator GOODING. Well, you would fix the maximum, would you not?

Mr. MORRILL. That was one of the proposals, that a maximum should be placed within which the Secretary should determine whether the minimum operated to prevent manipulation of prices in accordance with the original language of the bill.

The CHAIRMAN. I presume, on account of the fact that this legislation is to some extent experimental; no one wants to do any injury to anyone else, and there being a great deal of doubt even among so-called experts as to what the limit should be, the idea is that it should be left in such a position that somebody like the Secretary of Agriculture, for instance, would have authority to feel his way just a little bit.

Senator GOODING. You are not trying to hit any individual, because it is the big speculator, after all, that does the harm.

Mr. MORRILL. Yes.

Senator GOODING. When he is breaking up the market?

Mr. MORRILL. Yes.

Senator GOODING. He is the fellow who can do the harm; it is not a lot of little people.

Mr. MORRILL. Yes.

Senator GOODING. Yet you are excluding, to some extent, are you not, the outside speculators?

Mr. MORRILL. You are excluding the very large speculator, who is not using the market for hedging purposes to the extent that he can not operate within, say, a million bushels. You permit even a large speculator who has not any interest in the cash grain business to speculate in the market up to a total, we will say, of a million bushels. Then he must stop.

Senator CAPPER. Under this bill?

Mr. MORRILL. Under this bill, as it is framed.

Senator CAPPER. That is, it gives the Secretary of Agriculture the power to bring that about?

Mr. MORRILL. Yes. The board of trade itself must initiate the rule.

Senator CAPPER. Yes.

Mr. MORRILL. And submit it to the Secretary to determine whether that is an acceptable rule or not.

Senator KENYON. Have you any statistics, or are there any in existence, which show the amount of grain bought and sold in this way by the gentlemen who have raised any of it?

Mr. MORRILL. It is not possible to ascertain the exact amount of speculation as distinguished from hedging and other transactions.

The CHAIRMAN. If this bill were passed as it stands now, it would be possible to ascertain that, however? Could you not ascertain those facts under this bill?

Mr. MORRILL. It could be fairly ascertained if the books of the members of the board of trade were so kept as to show who the customers were and what the customers were doing.

Senator KENYON. Should it not be in somebody's power to compel them to be kept in that way?

Mr. MORRILL. That is placed in the hands of the Secretary by the bill as drawn.

Senator KENYON. Then, under Senator Norris's question, it could be regulated under this bill; could you get the information under this bill?

Mr. MORRILL. Yes.

The CHAIRMAN. Oh, yes.

Mr. MORRILL. Of course, one thing that the members of a board of trade will say is that frequently they have orders from customers who are in the cash grain business, and they can not say whether those customers are hedging or speculating.

Senator MCNARY. Well, there is nothing in this bill that prohibits hedging, as I understand it?

Mr. MORRILL. Not a thing. It not only does not prohibit hedging, but it does not prohibit speculation.

Senator MCNARY. Yes; I appreciate that.

Mr. MORRILL. Except in so far as this clause which we are discussing places a limitation upon it. It is a serious problem to determine just when a person is speculating and when he is hedging. Of course, if you had access to the customer's books, you could offset his cash grain transactions against his future transactions, but the broker's books might not show those facts.

The CHAIRMAN. As a matter of fact, is not this true, that hedging itself is one form of speculation?

Mr. MORRILL. The argument is that hedging is for the purpose of avoiding speculation; in other words, a form of insurance against fluctuations that can not be anticipated.

The CHAIRMAN. Yes; I understand that; but from the very nature of it, you hedge because of an uncertainty of the value of the stuff that you are dealing in.

Mr. MORRILL. Yes; that is it.

The CHAIRMAN. Or what its value may be in the future. That is, in itself, a form of speculation. I am not saying it is not justified, but it has always seemed to me that hedging itself was a form of speculation.

Senator KENDRICK. Mr. Chairman, not to digress too far from the plan of discussion, but I would like to have a brief statement from the witness as to what the bill does propose to prohibit and restrict.

The CHAIRMAN. Senator, suppose we let the witness finish these subdivisions. There is only one left to discuss.

Senator KENDRICK. All right.

The CHAIRMAN. Before we digress from that.

Senator KENDRICK. All right.

Mr. MORRILL. Do you wish me to answer your question about the hedging proposition, or go on?

The CHAIRMAN. You had better go on, Mr. Morrill.

Mr. MORRILL. The contention is generally made, and I think it could be supported by facts, that the man who buys grain and holds it and sells it is a far greater speculator than the man who hedges against his cash grain on the future exchange, unless the future exchange is not functioning properly. The man who buys grain and holds it and sells it is absolutely speculating.

Senator HARRISON. You are legalizing hedging, then?

Mr. MORRILL. Yes.

Senator CAPPER. Do you think hedging is desirable?

Mr. MORRILL. I think hedging, under our present system of marketing, is desirable, so long as we do not go ahead and change the marketing situation in some way—and that is a matter of slow evolution—we will have to have the exchanges with us, or something which performs the function of an exchange.

Senator McNary. Well, in the hearings before the House committee, which I have been reading, I think it was conceded that hedging was necessary for the handling of the grain.

Mr. Morrill. That was the opinion of the Committee on Agriculture, I think, almost as a whole.

The Chairman. I think we ought not to let these questions pass, unmodified at least. I have reached the conclusion that, under our present system, hedging is necessary, and yet I am not satisfied that eventually we can not get a system which will make hedging unnecessary. It seems to me, in theory at least, it is wrong, and while it may be necessary now, I think it is necessary because our system of marketing and distribution is so imperfect that it makes what I believe to be an evil necessary in order to keep it going.

Senator Caraway. Mr. Chairman, may I make this suggestion? I heard that same argument advanced in regard to the marketing of cotton, and yet the best grade of cotton is outside of those grades dealt in by the exchanges. They have been more stable in price, and the prices have been better. The premium, so called, I think, has been more uniform than on any other grade of cotton handled. For instance, the staple or long-fiber cotton is not dealt in by the exchanges at all. There is never a future market for that. That brings the best prices, and the prices are more uniform, year in and year out. There is less fluctuation in those prices than in any other grade of cotton.

The Chairman. Well, when a man hedged in any of these products——

Senator Caraway. But you can not hedge on that at all.

The Chairman. He does not expect, for instance, if he is hedging by selling, to deliver and complete that sale. If he is hedging by buying, he does not expect in his business, if he is a miller, to complete the purchase contract. He goes out at the time when he needs his wheat, or whatever it may be, and buys it, and he gets the exact thing that he buys. He only hedges to make up what might be a loss in his actual transaction.

Senator Caraway. The only thing I meant to say is here, with cotton grown in the same section, one kind falls in a certain grade, and they operate in that on futures, and you can hedge on it. The other is sold in the same markets, but it is above the grades gambled in, and you can not hedge on that, although it is more stable than any of the other grades.

Senator McNary. Is it not due to this, that the exchange deals only in 10 grades of cotton, and this one grade to which you make reference is a superior grade, not handled by it, and naturally it brings a better and a more uniform price?

Senator Caraway. That is it.

Mr. Morrill. I think I understand what Senator Caraway is getting at. As a matter of fact, in the case of staple cotton to which you refer the drop in premiums has been greater in proportion than the drop in the price of the grades of cotton that are deliverable on future contracts.

Senator Caraway. You are in error about that. I have grown it for years, and have sold it every year, with that same condition confronting it. I know what the market is.

The Chairman. All right, Mr. Morrill.

Senator HARRISON. You believe that it is more necessary to hedge in these grains than it is in regard to cotton, anyhow, do you?

Mr. MORRILL. I do not know whether I understand your question exactly.

Senator HARRISON. Well, it may be that somebody will move to amend this bill by including cotton. I do not know what is going to happen to it, but do you think that if hedging is necessary touching grain, it is just as necessary touching cotton?

Mr. MORRILL. I think, in the present situation of marketing, a provision for hedging is necessary for both cotton and grain. I do not think, though, that you can deal very satisfactorily with both of those commodities under the same bill. As a matter of fact, you now have the cotton futures act which, in some respects, goes very much further than this bill, although in other respects not so far, because the cotton futures act does not deal with the question of manipulation at all. On the other hand the cotton futures act, in effect, prescribes the exact form of contract which shall be used for trading purposes. It makes quite a bit of difference.

Senator CAPPER. You think this bill does deal with the problem of manipulation effectively, do you?

Mr. MORRILL. Well, I would not say it deals with it effectively, but it is a step in the direction of placing Congress in the position of providing any regulation that it may determine to be necessary. It gives the actual facts through the medium of such a law as this. It is the idea of the Secretary that it would put into the hands of Congress the requisite information as to the actual methods of doing buisness on the exchanges; so that instead of taking an estimate of what would be necessary legislation, we will have the facts upon which to determine what should be such legislation.

Senator CAPPER. And it also gives the power to eliminate certain vicious practices?

Mr. MORRILL. If they exist on certain exchanges, it gives you the power to analyze them, I think.

Senator KENYON. This is just a taxing power of the Government?

Mr. MORRILL. Yes.

Senator KENYON. You do not base it on anything else?

Mr. MORRILL. No, sir.

Senator KENYON. The transactions are not in interstate commerce?

Mr. MORRILL. The transactions on future exchanges are not considered to be in interstate commerce.

Senator KENYON. We have to reach it, if at all, by the taxing power?

Mr. MORRILL. Yes; I doubt if the use of any other power would be as effective as the taxing power.

The CHAIRMAN. You may proceed, Mr. Morrill.

Mr. MORRILL. Subdivision (e) as it was before the House Committee on Agriculture, read that:

> No board of trade shall be eligible to designation as a "contract market" if such board of trade or any member thereof operates or controls a privately owned or leased telegraph or telephone line connected with any city, town, or community other than another contract market.

There was some discussion in the Committee on Agriculture as to exactly what that did and how effective it would be, and the Secretary of Agriculture suggested that it be eliminated entirely. The framers

of the bill, in fact, had in mind the use to which leased wires are put rather than the ownership or control of the wires as such, and as the item was framed it did not prevent a member of a board of trade from turning over his wires to some one else, or, as a matter of fact, it did not prevent a member of the board of trade from giving up his membership entirely and setting up a leased wire system to handle the business.

Senator KENYON. Well, as to that business handled by wire, can you couple that up in any way with interstate commerce?

Mr. MORRILL. It is possible that that sort of thing could be reached through the interstate commerce clause. We have not only the question of wires for telegraphing and telephone purposes, but also the wireless.

Senator CAPPER. Why did you say the Secretary objected to that provision?

Mr. MORRILL. Well, he discussed that somewhat with them, and he said:

Now, in (e), on page 5, which forbids the operators on boards of trade to own or lease a telegraph or telephone line, I will confess I don't know enough about the actual operation to be able to form a matured opinion on that, but my own impression is, first, that the small fellows who operate over these leased wires do not cause the evils of which we complain. If you look at it purely from a business standpoint. I am inclined to think they help hold up the price of grain, because they are mostly the suckers, and they are mostly the fellows who think grain is going up, and consequently they provide a buying power there which at times is valuable. That is, looking at it in the general way. Approaching if from the moral side, of course, in a sense they are gamblers. But if you are considering only the business side of it. I would eliminate that whole provision.

* * * * * * *

I would eliminate (e). And for another reason also. An individual, any of us, might lease a wire, or we might own a wire, although we are not a member of the board of trade or doing any business on it, and yet we might own a wire and get these reports, and people might do business over that wire.

Then, there was some other discussion about it by members of the committee, including Mr. Tincher. That will be found on page 329 of the proceedings before the House Committee on Agriculture.

Senator MCNARY. And page 330.

Mr. MORRILL. On page 330. Mr. Tincher finally said:

I don't like the language of (e) nor do I like the attitude of the grain exchanges before the committee. They simply said that the way the private wires were operated was wrong, but they were going to adopt regulations and rules themselves to cure it, but they didn't like this regulation, and wanted us to leave it out of this bill entirely until they could take a hand in it, take action on it. I don't know whether they were laying all their cards on the table or not. I think I would let it in.

Senator CAPPER. The only way we could get relief from that evil under this bill as it now stands would be through the Secretary of Agriculture, would it not, who would have supervision over it?

Mr. MORRILL. Of course, under the bill as passed by the House, the Secretary would have no control over private wires as such. His control is limited to the determination whether the exchange provides such rules as prevent manipulation in that respect.

The CHAIRMAN. Well, if he determined that the operation of a private wire was one of the means of manipulation, could he not require them to quit operating over that or using it?

Mr. MORRILL. I think that question might come up for consideration. I can hardly speculate on what would be the conclusion. It is pretty hard to say.

Senator HARRISON. If they were members of an exchange, they would be subject to these requirements, would they not? If they were not members, they would not be subject to that?

The CHAIRMAN. Well, it is not in this bill, in specific terms, at least, as it stands now.

Mr. MORRILL. Mr. Tincher finally accepted the Secretary's suggestion and said:

I am very glad, so far as I am concerned, to follow the suggestion of the Secretary to leave it out.

The CHAIRMAN. Now, in place of it they put in (e); is that it?

Mr. MORRILL. Yes.

The CHAIRMAN. As we find it.

Mr. MORRILL. Now, (e) as you find it was in part suggested by the Secretary—not all of it. But the Secretary's idea was that this afforded the opportunity to take care of what appeared to be a discrimination against cooperative associations of producers by the organized boards of trade, chambers of commerce, etc.

The CHAIRMAN. The only object of section (e), as I understand it, is to require boards of trade to admit to their membership cooperative organizations?

Mr. MORRILL. Yes, sir; and to give them the privileges of membership.

The CHAIRMAN. Yes, sir.

Mr. MORRILL. That is the object of it.

The CHAIRMAN. That is the object of it, and why was that proviso put on there?

Mr. MORRILL. That was put on by the House Committee on Agriculture. It was put on while the bill was under consideration on the floor of the House, by one of the members of the House.

The CHAIRMAN. Do you think that is necessary?

Mr. MORRILL. I think that makes the possibility of carrying out the original purpose of the language uncertain, because it says:

Provided, That any such association or its representatives, applying for admission to membership on a board of trade, be able to, and shall comply with and conform to all rules and regulations of such board if the same have the approval of the Secretary of Agriculture.

Now, I think that the Representative who proposed it thought that the approval of the Secretary of Agriculture would take care of the situation, but it is a fact that the exchanges now take the position that any cooperative association of producers can be admitted to membership, but that the association can not engage in a method of distribution of its earnings which amounts to a rebate. In other words, the exchanges forbid all members from rebating, and they hold that the methods followed by certain cooperative associations are, in effect, rebating.

The CHAIRMAN. Now, that is the point I wanted to bring out, Mr. Morrill, and I have my doubts whether this language will admit cooperative organizations that have that method of distributing profits, and of course the object is to admit them, I suppose.

Mr. MORRILL. Yes. I think the section as a whole is open to question along that line.

Another Representative proposed an amendment on the floor of the House, which, however, failed, in which he declared specifically

that this provision should not be construed to prevent a cooperative association from distributing its earnings among its members in any way they saw fit.

Senator CAPPER. Do you see any serious objection to that provision?

Mr. MORRILL. No, sir; I do not.

The CHAIRMAN. Well, unless we put in some kind of a provision like that it is very doubtful whether, under this bill, farmers' cooperative organizations could come in under it. Is not that so?

Mr. MORRILL. It is doubtful whether they would get any more than they have right now.

The CHAIRMAN. Unless they distributed their proceeds according to the usual manner.

Mr. MORRILL. In the usual manner of a corporation.

The CHAIRMAN. In the usual manner of a corporation, which has been in vogue for a great many years.

Senator KENYON. Right in that connection, let me ask: Are there rules and regulations of the boards approved by the Secretary of Agriculture, as to the method of distribution of the profits?

Mr. MORRILL. That is the point, that the rules of the board would be submitted to the Secretary of Agriculture and would be passed upon by him. As a matter of fact, they would be anyhow, regardless of this amendment; but there is nothing in this amendment, as I see it, which gives power to the Secretary of Agriculture to say, "You shall authorize cooperative associations to distribute their surplus earnings according to patronage," for example, because, as a matter of fact, the rule which the exchange will have applies to all members alike, on its face. It does not mention cooperative associations at all. The difficulty which the associations have is based upon the interpretation of the rules of the exchange.

Senator CAPPER. Well, as a matter of fact, is not the rule of the exchange intended to get at the cooperative associations? It does not really apply to business generally on the exchange.

Mr. MORRILL. I would not go so far as to say it was intended to get at the cooperative associations. It certainly has that effect. The strong argument of the exchanges is that they must have uniform rates and they must prevent rate cutting among members.

Senator KENYON. Where is the provision that the rules and regulations of the board must be approved by the Secretary of Agriculture, outside of such rules as may come under section 5?

Mr. MORRILL. That is what I had in mind, that the rules and regulations of the board would have to be submitted for the purpose of seeing whether the conditions in section 5 were met, and that is the reason I said I did not see how subdivision (e) takes care of this question of cooperative associations.

The CHAIRMAN. Well, if this does not take care of them there is not any way for them to get into this bill as members of boards of trade, is there?

Mr. MORRILL. No, sir.

Senator LADD. Assuming that they did get in, would they be able to remain in for any great length of time under the present regulations of the boards of trade?

Mr. MORRILL. I think that is the reason they are not members of the boards of trade now, because they can not comply with the anti-rebate rule.

The CHAIRMAN. It is my idea, and I think it is the one found in practice to be the most effective one, that the members of the cooperative organizations, instead of getting dividends, get their shares of the profits at stated times when they find out what the profits are. Really, that is the most effective form of cooperation. That is cooperation of nearly 100 per cent. Now, they have been denied admission to membership of the boards of trade and exchanges for the very reason that their organizations provided for that kind of distribution of profits; is not that true?

Mr. MORRILL. Yes.

The CHAIRMAN. And they can not get into them now just because they have that provision in their articles of incorporation, and, as I understand it, that is one of the fundamental things that the cooperative societies stand for, and I think anybody will have to admit that it is the only way to reach 100 per cent cooperation, so that all profits are divided among the members, and none of it goes to speculation.

Senator CAPPER. Do you think it would seriously interfere with the marketing system as it is now conducted on the grain exchanges if these cooperative associations were taken in under the conditions which they ask, and such as Senator Norris has suggested?

Mr. MORRILL. May I answer that in a general way, first?

Senator CAPPER. Surely.

Mr. MORRILL. I think the grain trade, judging by the articles we find written in the grain papers, believe that the cooperative movement can not succeed, because they contend that the system of grain marketing is the most efficient and economical that the human mind has been able to devise; but, on the other hand——

The CHAIRMAN. They are just like the rules of the Senate in that respect.

Mr. MORRILL. On the other hand I think also that the exchanges take the position that they should not be compelled to admit to membership a potential competitor upon a basis that they can not do business on because this potential competitor does not take a profit. This competitor returns all of his profits to the people who make use of the facilities; whereas the organized exchanges or, rather, the membership of the organized exchanges are profit-making businesses and they can not meet that sort of competition. Now, if the original contention is true, that the cooperative movement is going to fail, they have nothing to fear from allowing them to have membership. On the other hand, if the cooperative movement is a good thing, they probably have a good deal to fear.

The CHAIRMAN. Well, do you think, assuming that they are doing an honest and fair business they have any reason to fear the admission of these cooperative organizations to membership?

Mr. MORRILL. Well, that is a question of whether the cooperative organizations can do business more cheaply for their members.

The CHAIRMAN. If they can do business more cheaply for their members, is it not to the interest of both the producer and consumer that they should be allowed to do it?

Mr. MORRILL. I think so, unquestionably, but it is right in that fact that the members of the existing organized exchanges have something to fear, because their feeling is undoubtedly that if the cooperative associations succeed, the business of the middle men, we will call

them now, will be dominated to that extent. It is purely a competitive proposition. Now, personally, I think that business should be conducted in the method which is most efficient and economical, and if the cooperative associations provide that method, they should be allowed to do business that way.

Senator McNary. Mr. Morrill, I recall reading this testimony, taken at the hearing before the House committee. This is a statement of Mr. F. B. Wells, of F. H. Peavey & Co., of Minneapolis, Minn. He spoke tenderly of the cooperative movement, and he said on page 71:

> I believe in the cooperative movement. I believe it is going to make a success, but I do believe it will have to come up from small beginnings and develop gradually rather than attempt to handle the entire grain crop of the country instantaneously; and I believe that the interests of those who are devoting their time to cooperative marketing of grain are identical with those of any other grain merchants.

Mr. Morrill. Yes; but no doubt he would oppose any proposition that they should be admitted to membership on the boards of trade.

Senator McNary. I do not read it in his testimony.

Mr. Morrill. That has been their attitude right along. We have a specific instance of the attitude of the exchanges in the case of a live-stock exchange, which absolutely refused to allow a cooperative association of live-stock shippers to have membership, notwithstanding the fact that the question was taken up with them for the purpose of attempting to get them to make that change under the authority of the food control act, but the question was not finally thrashed out before the food control act was repealed.

Senator Gooding. You have a case of that kind this year, have you not?

Mr. Morrill. This year, you say?

Senator Gooding. Well, recently.

Mr. Morrill. Well, I presume the condition goes on. As a matter of fact there is a very successful live-stock producers association operating at Omaha and certain other cities in the West, and so far as I know it has never been able to get membership on the present exchange because it pro rates its excess earnings back to the members in accordance with their patronage.

If the representatives of the Chicago Board of Trade and other boards of trade will say not only that they believe in the success of the cooperative movement, but that they are willing to admit the cooperative associations to membership notwithstanding their methods of distributing their earnings, of course you have removed all question arising under subdivision (e), but it is not our understanding that they have been willing to do that.

The Chairman. Well, we will probably hear from a good many of them on that point before we finish the hearings.

Mr. Morrill. That completes the discussion of the conditions attached to a designation as a contract market. Section 6 provides the procedure by which the designation may be obtained and by which it may be suspended or revoked, and, further, by which the action of the Secretary of Agriculture in suspending or revoking the designation may be reviewed by the Federal courts.

The rest of the sections of the bill relate to what are comparatively details.

Section 8 specifically authorizes the Secretary of Agriculture to make investigations—

to ascertain the facts regarding the operations of future exchanges, to publish from time to time in his discretion the results of such investigations and such parts of reports made to him under this act, and such statistical information gathered therefrom as he may deem of interest to the public.

That is a little bit of an enlargement over the language of the Capper-Tincher bill, although the Capper-Tincher bill was designed to do substantially the same thing.

The Secretary of Agriculture was particularly anxious that there should be clear authority on the part of the Secretary to make a thoroughgoing investigation of the operations of future exchanges and power on his part to publish the results of his investigations, so that there would be no question about it.

Some of the representatives of the grain exchanges, however, have raised the point that this seems to permit the Secretary of Agriculture to publish the business of an individual at a time when it would do him harm in his business transactions on the future market, and I think they will propose some amendment to place a limitation on that authority.

Senator KENDRICK. Now, Mr. Chairman, may we have a statement of Mr. Morrill as to the absolute purpose of the bill?

The CHAIRMAN. All right, Mr. Morrill.

Mr. MORRILL. The bill, as we see it, is simply a step. It does not go nearly as far as a number of other bills that have been introduced, and very likely it does not go as far as many people might think it should go. In fact, there are things about the future exchanges that we in the Agricultural Department think might be further regulated than this bill does; but this bill seemed to be the basis upon which the members of the Committee on Agriculture of the House could reach an agreement, and the Secretary felt that it was desirable that some legislation be passed which would give at least a measure of control over the future exchanges, particularly with reference to the power to get actual information as to the transactions on the future exchanges and some of the other things that we have discussed as I have gone along.

Now, the bill does not do a great deal in the way of direct legislation, as I think you have in mind in your question; but the very fact that the records of the members of the exchange must be so kept that they show all the facts of their business, and that they will be open to inspection and that the members will make reports to the Government in accordance with these requirements will, in itself, have a deterrent effect.

Senator KENDRICK. In other words, you think the publicity will prove to be a corrective influence?

Mr. MORRILL. It will go very far. The boards of trade, I think, now contend that they have regulated the business of their members as far as it is practicable to do so, and if they have not done so they are willing to do so, but the people at large have not the confidence or the assurance that that will be done, and it is the feeling of the Secretary that this bill affords a basis for ascertaining whether it will be done or not, and gives the people confidence that they know the facts.

I mentioned that feature of it particularly, because I am quite sure that that is the thing upon which the Secretary lays the most stress.

Senator McNary. Does it meet with the concurrence of most of the farm organizations of the country?

Mr. Morrill. I do not know just how they look upon the bill as it finally passed. I know that the farm organizations believe that some bill of this kind is desirable, but whether they approve this bill I am not prepared to say.

Senator Gooding. Will this bill shut out any great number of speculators who have been dealing in grain, or can you give us any idea of that at all?

Mr. Morrill. Well, I think that depends upon the way the speculators look upon the power of the Government to see the books of the boards of trade, to get reports, and to publish facts, and it also depends to some extent upon the control which the exchange would exercise pursuant to this provision that requires them to prevent manipulation of prices. I think one reason why some people would fear the power of publicity by the Department of Agriculture is because they would fear that the names of particular people and the amounts of their transactions might be published.

Senator Ladd. You think it is very likely that this bill will reduce to any material extent the present and past manipulations that we have had in grain?

Mr. Morrill. Well, that depends upon the effect of the power to get at the operations of exchanges, and to publish the way they do business, very largely.

I might say that the Secretary does not feel that this is the sum total of legislation on this subject. He simply feels, as I said before, that it is a start. It may accomplish this purpose. If it does not, the fact can be demonstrated to better advantage and with greater certainty at a later time. He feels that he would like to be given the opportunity by means of this bill to make an absolutely disinterested impartial study of the operations of the exchanges for, say, a year, and then report to Congress his conclusions.

Senator McNary. Does this bill contain all the powers that the Secretary of Agriculture would like to have conferred upon him with reference to this subject?

Mr. Morrill. I think it probably goes as far as this kind of a bill can go. As a matter of fact, the exchange representatives feel that it has gone too far in that respect.

Senator Ladd. You think this bill will enable him to gather the information to show the amount of what might be called the legitimate trading and hedging, as compared with speculating?

Mr. Morrill. It is going to be difficult to do that with any sort of exactness, for the reasons that I have stated a while ago, that the board member does not always know just exactly what his customer is doing. At different times in connection with the cotton future exchanges I have gone into that question of the possibility of ascertaining the facts, and in hearings that we have had we have called upon the members of the boards of trade who were in a position to know as well as anybody could know without actual examination of the records, and their estimates have varied considerably as to what the proportion of hedging and speculation might be. And,

moreover, the proportion of hedging to speculation varies throughout the year. At one time it would be very much greater than at another time.

Senator GOODING. Mr. Chairman, it would be very interesting if we had someone here who could tell us the story of the effect of this speculation. We have heard a great deal of it, and it would be interesting to know how much truth there is in the story.

The CHAIRMAN. Maybe Mr. Morrill can do that.

Senator GOODING. I do not know.

Mr. MORRILL. If you would like to hear a gentleman who can discuss the operations of the future exchanges from the standpoint of actual observation, we have a man in the Bureau of Markets, Mr. Rollin B. Smith, who, at one time, was a member of a board of trade and a floor trader, and who has spent the last 12 years or more watching the operations of the future exchanges.

Senator MCNARY. He testified before the House committee, did he not?

Mr. MORRILL. Very briefly; on just this point of manipulation.

Senator GOODING. It would be very interesting to hear him, Mr. Chairman. I would like to have the story first-hand.

Mr. MORRILL. If you would like to hear him tell you the results of his observations, I am very sure you can get him at any time you desire.

The CHAIRMAN. We will get him, Senator.

Now, Mr. Morrill is through and it is 12 o'clock. We will adjourn here until to-morrow morning at 10.30 o'clock.

(Whereupon the committee adjourned until to-morrow, Saturday, May 28, 1921, at 10.30 o'clock a. m.)

FUTURE TRADING IN GRAIN.

SATURDAY, MAY 28, 1921.

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE AND FORESTRY,
Washington, D. C.

The committee was called to order by the chairman (Senator George W. Norris) at 10.30 o'clock a. m.

Present: Senators McNary, Capper, Gooding, Ladd, Norbeck, Smith, and Caraway.

The CHAIRMAN. Gentlemen, we have Mr. Smith here from the Department of Agriculture, who is to tell us about the operations of the grain exchanges and the boards of trade.

STATEMENT OF MR. ROLLIN E. SMITH, GRAIN SUPERVISOR, BUREAU OF MARKETS, UNITED STATES DEPARTMENT OF AGRICULTURE.

The CHAIRMAN. We have been told, Mr. Smith, that you understand all about the operations of the grain exchanges and the boards of trade, that you have worked on them from the inside, and have watched them from the outside. The members of the committee are anxious to have you give us the whole story, and we want you to tell us in your own way.

Mr. SMITH. I am not sure that I know just what you want, Mr. Chairman.

The CHAIRMAN. First, tell us who you are and your official position.

Mr. SMITH. My full name is Rollin E. Smith. I am in the Bureau of Markets of the United States Department of Agriculture, and my title is grain supervisor. I am at present working in the Foreign Markets Division.

The CHAIRMAN. How long have you been there, Mr. Smith?

Mr. SMITH. I have been with the bureau not quite three years.

The CHAIRMAN. And what did you do prior to that time?

Mr. SMITH. For four years immediately before that I was market and financial editor of the Minneapolis Journal, and for several years before that I was editor of the Commercial West, a financial and market paper of Minneapolis, and managing editor of the Northwestern Miller. After I left the Northwestern Miller I bought a membership in the Minneapolis Chamber of Commerce and retained that for about six years. I traded actively in the pit for four years. I was also a member of the Chicago Board of Trade for several years, owning my own membership.

The CHAIRMAN. What did you do while a member of the board of trade? Were you actively engaged on the board of trade?

Mr. SMITH. I was in the Minneapolis exchange as a broker. I had a little commission business, a little cash grain, but mostly futures.

My membership in the board of trade was merely to get half of the commissions on orders that I could send to Chicago.

The CHAIRMAN. That is, while you were a member of the Chicago Board of Trade?

Mr. SMITH. Yes. I was a member of the two exchanges at the same time.

The CHAIRMAN. At the same time?

Mr. SMITH. Yes, sir.

The CHAIRMAN. But your place of business was in Minneapolis?

Mr. SMITH. Yes.

The CHAIRMAN. Prior to that time what was your business, Mr. Smith?

Mr. SMITH. I was on the Northwestern Miller, and before that I was with my father in a country mill, elevator, and country bank in southern Minnesota.

The CHAIRMAN. How long had you been engaged in that business?

Mr. SMITH. From the time that I was 17 to 25. During that time, of course, I came in contact with buying grain direct from the farmers, and I also spent two years traveling on the road selling flour.

The CHAIRMAN. Mr. Smith, the committee would like to have you tell about the operations of the boards of trade. Most of the members of the committee are not familiar with those operations and do not know anything about the technicalities of them. So just consider that you are talking to men who do not understand the subject and tell it to us as you would a class on that subject.

Mr. SMITH. Let me lead up to that.

Senator CAPPER. There is one point you did not bring out, Senator, I think. Mr. Smith has written one or two books on this subject. Will you tell the committee what they are, Mr. Smith?

Mr. SMITH. I was going to mention that.

Senator CAPPER. All right.

Mr. SMITH. While I was a member of the Minneapolis Chamber of Commerce I was doing some writing, and I conceived the idea of studying the markets of Europe. So I went to Europe at my own expense and on my own responsibility, and I visited every grain exchange of any importance in Europe and went through every wheat growing country, including Russia. I also visited the grain exchange at Odessa. That was the principal grain exchange of Russia.

The CHAIRMAN. Tell us what year that was in and how long you were there?

Mr. SMITH. I sailed the first part of February, 1906, and I was gone six months. I spent considerable time in the grain exchanges of Liverpool and London and was greatly assisted in my investigation there by having a letter to Mr. Broomhall. He is the most distinguished grain statistician in the world and gathers information for the grain importers of the United Kingdom.

When I came back, after several months, I put all of my material together and I wrote a book. I have a copy of that book here, Wheat Fields and Markets of the World. It is divided into two parts, one the wheat-growing countries, and the other the markets of the world.

Senator GOODING. I was wondering, Mr. Smith, whether you read the bill that we have under consideration here this morning?

Mr. SMITH. Yes, I have; the revised bill that was——

Senator GOODING. That was passed in the House of Representatives.

Mr. SMITH. Yes; I have read that.

The CHAIRMAN. That is the bill, Mr. Smith, that is before us to-day.

Mr. SMITH. Yes.

The CHAIRMAN. We are more interested, at least to begin with, to have you tell us about the exchanges and the boards of trade, both in this country and abroad.

Mr. SMITH. There was only one grain exchange at that time in Europe that was comparable with our grain exchanges, and that was at Budapest, in Hungary. In fact, they had a pit there and a crowd of brokers, speculators—scalpers, we call them—and the public speculated just as in this country. The conditions seemed very similar. That was the only exchange of the kind in Europe.

The CHAIRMAN. Now, I think probably, from your knowledge of the subject, you will pass over some things, assuming that we may know about them, although we do not. I think it may be better, when you use these terms that are not ordinarily used outside of the grain business, if you explain what they are as you proceed.

Senator GOODING. Mr. Chairman, if I might suggest, if you please, I think it would be advisable if he would go ahead and give us a short story of the grain operations, say, in England and other countries, such as in Budapest, which you have mentioned, and then let him take up the grain operations in this country—the results, and what the effect is on the grain markets, and all those things.

Mr. SMITH. While it is in my mind, I will speak of the grain exchange of Berlin. I made particular inquiry there in regard to what is called the Bourse law, which, I think, was passed in 1896, and which pu t the grain exchange out of business, or, rather, the members of the grain exchange "seceded," as it was called. That bill absolutely prohibited speculation in futures, and the result was that the members of the exchange refused to send out any quotations into the country, and the country dealers had no quotations. Therefore, the farmers were compelled to sell for just what was given to them. The result was that in 1900 a compromise was effected between the Government and the members of the grain exchange and the bill was amended to permit trading in grain futures where actual delivery was intended, but by members of grain exchanges only. The public was not permitted to speculate. Any speculation was put in a class with common gambling and no recovery could be had on any contracts entered into that were purely speculative. It put the grain dealers on just about a cash basis, rather than trading in futures. There has been so much discussion about that law that I thought I would mention it.

The CHAIRMAN. That is interesting and I wish you would tell us what effect it had on the market when they reduced the operations to a cash basis.

Mr. SMITH. I can not say that it made any great difference except for the speculators. There were not the great speculative fluctuations in price that there were before, because previously there was a great central speculative market in Berlin. The whole of Europe speculated on the Berlin Bourse, but after 1900 business apparently went on, and, of course, prices were influenced by world conditions, as they are in all countries.

Senator CARAWAY. You say there were not the wide fluctuations in price after the compromise law that existed before?

Mr. SMITH. No; there were not.

Senator CARAWAY. The farmer more nearly got what the world market would justify him in receiving?

Mr. SMITH. I can not say positively that there was any difference in the average price, yet the advances and declines were not so great.

Senator CARAWAY. But the man who had the grain to sell more nearly got the world's market price?

Mr. SMITH. I should say so.

Senator CARAWAY. And the consumer was not subject to the wild prices that sometimes prevail in this country on account of speculation; is that true?

Mr. SMITH. Yes, sir.

Senator GOODING. Let me ask you how long ago that was.

Mr. SMITH. In 1906.

Senator GOODING. Is there any change in that law at the present time?

Mr. SMITH. Not that I know of. I have never heard of any.

Senator SMITH. Mr. Smith, did you have an opportunity of comparing the range of fluctuations before this law went into effect, when they had the unlimited privilege of speculation, and under the restrictions of the compromise?

Mr. SMITH. No, sir; I did not, Senator. This is a general impression. I do not state it positively.

Senator SMITH. I was wondering how an exchange in doing the world's business, such as Berlin would do, could have a stable form of market, if other exchanges, or perhaps the great bulk of the grain at first hand was bought and sold and speculated in. Were there not the wide fluctuations that sometimes characterize, or perhaps generally, characterize our own market?

Mr. SMITH. That might be answered by mentioning the Baltic market of London, which is the greatest cash wheat market in the world, dealing in cargoes of wheat. The great importers there buy all over the world, and they do not follow every fluctuation. They buy when they think the price is right, and they sell to the smaller dealers as they get a profit. If the price goes suddenly up, as it has in Chicago in the last few weeks, they do not follow that market. Likewise, if they have a great deal of wheat on hand or contracted for, and there is a sudden decline, they do not sell their stuff right away. After the passage of the bourse law in Berlin it was no longer a world market except as the importers of Germany had to buy for consumption in Germany.

Senator CARAWAY. Let me ask you another question. How did the fluctuations in the Berlin cash market then compare with those in Budapest, where they had practically our system in operation?

Mr. SMITH. There were not the many minor fluctuations or the extreme fluctuations. In the Budapest market there were many fluctuations—sudden advances or declines incident to a futures market, but not incident to a substantial cash grain market; that is, where the cash grain does not depend upon the futures. I mean by that, in our exchanges the cash grain markets and futures markets go together, because they are so closely linked up, but in a country where there is no futures market the cash grain moves more slowly.

Senator SMITH. I may be anticipating, but I would like to know, so that I may follow your statement in an intelligent way, what is your opinion as to the effect, whether beneficial or otherwise, on the producer of futures trading in grain?

Mr. SMITH. Well, Senator, I have not a definite opinion on that point. There was one time that I thought the average price was probably higher because of the futures market, but I do not feel at all certain about it now. When we have a surplus it goes for export. The European importers buy in this market as early as they can. They are buying new crop wheat now. There is hedging in the futures market by those who sell it, but it is so interwoven with speculation and legitimate trading that I do not believe anybody's opinion is really worth anything on that point. It is a question whether the price would be higher or lower without the futures.

Senator SMITH. In this country there has been no absolute cessation of speculation. Therefore we have no basis of comparison to know whether an absolute cessation of speculative future dealing would be beneficial or otherwise?

Mr. SMITH. No; except, of course, when there was Government control.

Senator CARAWAY. But the price was fixed then?

Mr. SMITH. Yes.

Senator CARAWAY. I want to ask you this further question. The same year that you were in Berlin you were in Budapest?

Mr. SMITH. Yes.

Senator CARAWAY. Where was the general average of cash grain higher; in which of those two countries, or did you make a study of that? Did the man who was actually growing the grain get more in Germany or more in Hungary?

Mr. SMITH. That depended on the tariff, and the tariff, I believe, was higher in Germany; so the comparison would hardly be a fair one.

Senator CARAWAY. Germany does not produce as much grain as it uses, does it?

Mr. SMITH. No.

Senator CARAWAY. And it had a tariff, and of course that was added to the home grower's price?

Mr. SMITH. Yes; there was a tariff in Hungary also, but I believe that was lower than the German tariff.

Senator CARAWAY. And Hungary produced more than it consumed, did it not?

Mr. SMITH. Yes. Hungary and Austria were linked up together, and it sent the bulk of the surplus into Austria.

Senator GOODING. Mr. Smith, explain a little more fully or give us a little more information in regard to the actions in the market where there is gambling going on, like Budapest, Berlin, and Liverpool. This is what we have in this country: We have wide fluctuations; the market starts in strong and closes weak; and there is a very radical difference in a day's trading. Does such a condition as that exist in Liverpool and in Berlin any longer? They buy, as I understand it, on delivery, without the speculative feature entering into it.

Mr. SMITH. Not to so great an extent. Liverpool follows the Chicago market to some extent. The traders in the Liverpool exchange say that they do not care anything for the Chicago market; but at

the same time they do. Liverpool is influenced by Chicago to some extent, just as Chicago is influenced by Liverpool. There is a futures market in Liverpool, but it is somewhat different from the American futures markets. There is not the great volume of speculative transaction, and the public speculates very little, if any, in grain in the Liverpool market.

Senator GOODING. Well, if this speculation were wiped out in this country—and that is the point here—what would its effect be?

Mr. SMITH. I think the fluctuations would be very much smaller—that is, where we have several cents fluctuation in a day we might have a very small part of it, and where we have 20 or 30 cent fluctuations now I can not conceive that we would then have more than a quarter part of that range, without speculation in the futures market. By "speculation" I mean a great volume of speculation—what we might call excessive speculation.

Senator GOODING. To whose advantage do you think a bill of this kind would be, as between the two forces—the bulls and the bears—that operate in the wheat pit? To whose advantage would this bill tend?

Mr. SMITH. I do not think it would make any difference.

Senator GOODING. You do not think it would?

Mr. SMITH. No.

Senator SMITH. The point that Senator Gooding is getting at, I presume, is the effect, the general effect, whether beneficial or otherwise, on the producer, the man who actually grows the grain, in the general fluctuations of the market, in the speculative market, between the "shorts" and the "longs." Is he the beneficiary, in your opinion, or is he not, by virtue of the speculative market?

Senator GOODING. Who is it, in other words, that tends to create the unsettled conditions when wild selling or buying takes place? It may be one force or the other, may it not?

Mr. SMITH. Yes.

Senator GOODING. But is the speculation a feature that brings that condition into existence—the extreme, I am talking about now?

Mr. SMITH. In my opinion, it is. Now, take a bear market—that is, when the price declines steadily over a period of a few weeks, perhaps, as it did in the latter part of March and during April of this year. That condition is brought about, in my opinion, by speculation, and not by legitimate conditions, for this reason: Speculators follow the course of least resistance. It may be that they work against legitimate conditions at times. Now, it is said that the average price of grain is not changed by speculation. That may be true. It may go up 40 cents and then go down 40 cents below that average. A bear market like that which I mentioned would be brought about in this way: When the course of least resistance is downward, the professional speculators begin selling short, and there is comparatively little buying.

The CHAIRMAN. What do you mean by a man "selling short"?

Mr. SMITH. Selling something before he has bought it, Mr. Chairman, without any regard whatever to delivering, or without any regard whatever to legitimate transactions. I am speaking purely of speculative transactions now—gambling, if you want to call them that.

Senator GOODING. He takes a chance on being able to make delivery, if called upon to do so?

Mr. SMITH. Oh, no, he will never stand until delivery day; that is, few speculators will. They will go out to-morrow or the next day, or in a few weeks at most.

Senator GOODING. Yes; I understand that, but when they go out they have to take their losses.

Mr. SMITH. If the price goes up; yes.

Senator SMITH. Practically all of it is marginal gambling?

Mr. SMITH. Yes; betting on the price.

Senator SMITH. Yes.

Mr. SMITH. Well, to continue what I was speaking of—as the price goes down if finally runs into what we call "stop orders." That is, people who bought it when it is going up, place stop orders, so that if it goes back to that point they are "sold out," to use a trade expression. Their holdings are sold out, to prevent a loss, or any further loss. This additional selling causes an additional weakness. This was the case in March and the early part of April. As the price declined it caught a great many stop orders of persons who had a bought for an advance. As they sold out the market had that much additional pressure put upon it. Finally, it demoralized the flour buyers, the jobbers, and the bakers, and the smaller dealers in the Eastern States who buy grain to distribute. They were afraid to buy anything because, if they bought it, the next day they had a loss. Then the big speculators who had been selling short all the way down, the heaviest ones, began to buy, began to take their profits and close out their transactions. That was the end of the decline, which was caused by speculative selling.

Then, other speculators, seeing that condition, and knowing that the market was well liquidated, began buying, and it advanced, and since that we have had an advance of 65 cents in May wheat. There was also an advance of 35 cents in July wheat, due to buying on a crop scare—mainly speculation.

Senator GOODING. That is very fine, Mr. Smith; that is just what I want to learn and understand.

Mr. SMITH. When the wheat market began to decline in the latter part of March, cash wheat in all the markets was at a premium of, I think it was, 8 to 12 cents for No. 2 winter wheat over the May future; that is, cash wheat was worth that much more than future.

Senator CAPPER. That is an unusual condition, is it not?

Mr. SMITH. That difference is rather unusual, although it was greater than that last winter. No. 2 soft red winter wheat was as high as 35 cents over the May future at one time last winter. That indicates that there was a demand for that class of wheat. Otherwise that premium would not have existed. It could not have existed. Somebody was buying it—the exporters or the millers—and paying more than the May price, and that continued clear down to the bottom of the decline that terminated in April; that is, on the break, cash wheat sold at a premium over the May wheat. In the last 10 days May wheat and cash wheat have about come together, as they must at the end of the month, because of the settling up of the May contracts.

Senator SMITH. Mr. Smith, before you leave that will you explain to the committee how a speculator can buy and sell in the futures

market, the "spot month," as they call it, at a discount over the price of the actual spot grain or cash grain?

Mr. SMITH. Pardon me. Under the price, you mean?

Senator SMITH. No; over the future price. For instance, May wheat would be 12 cents cheaper per bushel than the actual grain that was being handled.

Mr. SMITH. Yes; of course.

Senator SMITH. Now, will you explain to the committee how they can do that and what are the conditions—the reasons why they do that? That same thing occurs in the cotton market. I am more or less familiar with that, and I want to have you explain to the committee how they could do that?

Mr. SMITH. There are two reasons. One is the demand for cash wheat from exporters and millers. Exporters and millers want the wheat badly enough to bid the price up above what the terminal elevators will pay for it, and competition among themselves is also a factor in making the cash wheat price—in fixing the premium at which it sells above the future.

I said there are two reasons. Take the Minneapolis market. Cash wheat, No. 1 and No 2, are almost always at a premium, over the futures there; in normal times, the premium is 2 or 3 cents. The reason for that is that the wheat in question is "country run wheat." It comes direct from country shippers and is sold on the sample tables. The mills want that wheat and are willing to pay a little premium over the future, for the future represents elevator wheat.

Senator SMITH. That is the very point I wanted to bring out. The public, the producing public, is thereby deceived as to the value of certain kinds of wheat it may have. The future market reflects what the seller may deliver. It is the general run of wheat, and yet it is not so actually quoted, whereas the spot buyer selects the particular kind of wheat he wants and pays a premium for it.

Mr. SMITH. That is correct, Senator.

Senator CAPPER. Now, we have really unrestricted speculation in grain among grain exchanges, have we not?

Mr. SMITH. Yes, sir.

Senator CAPPER. There is practically no control over speculation?

Mr. SMITH. That is correct—only a nominal control.

Senator SMITH. Senator Capper, I asked the question I did a moment ago because I think that in our legislation, if it can be reached by legislation, we should get that very essential principle clearly in mind. The future quotations take the run of the table—I believe that is what you call it, is it not?

Mr. SMITH. "Cash wheat," "country run." That means that it is just as it came out of the cars, and as shipped from the country stations.

Senator SMITH. Yes. Now, that is largely the basis upon which future quotations are made. The millers and the exporters who go into the market to get their actual wheat demand certain specified grades and pay a premium on such grades. That is not reflected in the general market or in the market for local buyers in the country, who buy from the farmer. The farmer gets none of that. He gets the price as quoted on the future market, whereas the spot buyer, close to these elevators in great central points, selects what he wants

and pays a premium over the actual quotation on the board for that day, and the producers get no benefit from that whatever.

Senator CARAWAY. And the consumer pays it?

Senator NORBECK. Does it work the other way part of the time?

Mr. SMITH. I do not know just how to answer that.

Senator NORBECK. The Senator has stated the conditions under which the farmer is the loser, not having a full knowledge of or not being able to take advantage of the situation. I would like to know whether, at other periods, it works the other way, or is the farmer always the loser?

Senator CARAWAY. Under unrestricted gambling, does the producer always lose?

Mr. SMITH. I do not think that question can be answered by anyone.

Senator CARAWAY. Except merely as a matter of opinion?

Mr. SMITH. Yes, sir; it is a matter of opinion, I think.

Senator SMITH. I think the purport of that question is this: Does it ever occur on the exchange that the spot wheat, the actual delivery of the wheat to the exporter or the mill, is at a discount under the board prices?

Mr. SMITH. I think No. 1 northern wheat, that is, in the Minneapolis market and in Duluth, and No. 1 soft and hard winter in the Chicago market, are almost never under the future. There might be instances for a very short time. That was not true, however, a matter of 20 years ago. Probably since that there has been a time when cash wheat was at a discount. There is a difference between No. 1 "elevator" wheat and No. 1 "country run" wheat.

Senator CARAWAY. What is that?

Mr. SMITH. "Elevator" wheat is mixed wheat and, of course, of poorer quality than "country run" wheat.

Senator CARAWAY. That is a commercial advantage that the elevator man has over the man who grew the wheat?

Senator NORBECK. Is not that due to cleaning and mixing?

Mr. SMITH. It is due to cleaning and mixing.

Senator SMITH. I have just had my attention called to an answer to my question, and the reason given is very apparent. This is the New York Times, under date of May 28, in which it is stated:

> Cash wheat in the sample market drops to 2 cents under the May, after selling at the May price early, elevator interests refusing to take hold on account of the rapid fluctuations.

That is one instance where, temporarily, the cash buyer selected what he wanted and demanded that kind and would not follow a rise in the prices on account of the very fluctuation you have spoken of. Of course, that would not last more than a day or two. It could not.

Mr. SMITH. That condition was brought about by the termination or the almost termination of the May future.

Senator SMITH. Yes. When is the notice day in the wheat market? How many days before the expiration of the month?

Mr. SMITH. I do not know that there is any day so regarded.

Senator SMITH. Do they trade right up until the last day of the delivery month?

Mr. SMITH. Yes.

Senator SMITH. The reason I asked that question is that I am not as familiar with the grain situation as I am with cotton. In cotton they have a notice day, a certain number of days before the expiration of the contract, so that the buyer may serve notice as to whether he will accept delivery of the cotton, and the seller gives notice of his demand.

Mr. SMITH. In the grain market they deliver or trade right up to the last day.

Senator SMITH. Well, it differs in that respect from the cotton market. So the May contract runs right up to the last day of May?

Mr. SMITH. Yes.

Senator SMITH. And can be delivered on the last day of May?

Mr. SMITH. Yes.

Senator LADD. Mr. Smith, are the grain exchanges as they are now conducted conducted in the interest of the public, or are they privately conducted? I notice the following statement in an article:

> These big traders use the market as if it were their own private affair, absolutely regardless of other members' rights or the menace their operations are to the business of others. The absolute controlling of the wheat, corn, or oats pit of the Chicago Board of Trade by one man or a set of men is a piece of audacity having few equals in commercial history.

I would like to know how they are conducted in that respect.

Mr. SMITH. I think I recognize that quotation, Senator. It is from my book, which I wrote in 1907. The market, notwithstanding what may be said to the contrary, is controlled by big speculators at times; that is, their operations are so great that for a time they do control the price.

Senator SMITH. Regardless of the crop or of the law of supply and demand?

Mr. SMITH. Regardless of anything. Of course, if they hold control long there must be conditions that help them to do it. But any man that at any time buys a million bushels of wheat, corn, or oats purely for speculation is not working in anybody's interests but his own. He is prostituting the market.

That brings up the point of limiting open speculative trades. That is the cure for the evil of overspeculation, as I see it.

Senator CAPPER. What is the cure for it, do you say?

Mr. SMITH. To limit the amount of open speculative trades that any man may have at any one time.

Senator CAPPER. You have read this bill? It undertakes to do that, does it not? That is, it has a tendency in that direction?

Mr. SMITH. Yes; but it leaves it to the discretion of the Secretary of Agriculture.

Senator CAPPER. Would you go further than that?

Mr. SMITH. I think there should be a definite limit.

Senator SMITH. What do you mean by "a definite limit"—as to the individual's privilege of selling short or going long, or the total on that exchange of the longs or the shorts?

Mr. SMITH. No; the individual.

Senator CARAWAY. Let me ask you another question. If you limit the individual what is to prevent his using—possibly that is not a good word, but it is the best I can think of—a dummy?

Senator SMITH. A proxy; they call him that.

Senator CARAWAY. Yes; and going into the market for just as many bushels as he has capital to trade with.

Mr. SMITH. "Pooling" is the term, I think, that is used. It could be done, but with some supervision of the exchanges and a heavy penalty it is doubtful whether it would be done to any great extent.

Senator CARAWAY. If you are going to limit the amount of open trades the public may suffer just as much from a group of operators in the market as it might from an individual. A number of men can "pool" the market. One interest alone does not undertake to control the market. They form a combination.

Mr. SMITH. Pooling could be specifically prohibited, but the penalty for the violation of the limit of open trades would pretty nearly cure that abuse, I think.

Senator CARAWAY. That is, if the whole market should only have so many bushels of wheat?

Mr. SMITH. No; that would not be practicable. The idea of limiting open trades, either long or short, that any speculator might have at one time, would be to eliminate the big speculators and stop excessive speculation.

Senator CARAWAY. Yes; I understand; but if you permit them to form a group, two dozen men, say, to get together, each one can go to his limit.

Mr. SMITH. That could be covered by prohibiting pooling.

The CHAIRMAN. Now, Mr. Smith, assuming that the committee wanted to change the bill so as to put a statutory limit in here, that is not in the bill as it stands before us, but is left to the discretion of the Secretary of Agriculture; but assuming that we should want to change it and fix by statute a limit, what would you say that limit ought to be?

Mr. SMITH. I think that a million bushels would be as much as it should be.

Senator SMITH. That is, to one individual?

Mr. SMITH. To one individual.

Senator CARAWAY. Well, would you say that would be for an individual or a pool?

Mr. SMITH. No; I just said definitely to prohibit pooling.

Senator CARAWAY. It is a difficult matter to prove that people are pooling.

Mr. SMITH. They might put it that way—an individual or group. That might cover it.

Senator SMITH. Mr. Smith, may I ask you another question? We are all thinking out loud, because this is a matter of great importance to us. If you were to limit individuals or pools to a million bushels, what incentive would there be then for them to increase the membership of the exchanges to such an extent that the same result would be reached as to the overselling or the overbuying of the market?

Mr. SMITH. I do not think that would have any bearing on it whatever. The men who trade in a million bushels or more are the exception. They are comparatively few, but it is just these men that cause the excessive speculation that has a bearing on the larger fluctuations.

Senator SMITH. What, in your experience, was the greatest number of bushels of wheat that you have known to be bought or sold by one individual?

The CHAIRMAN. At one time?

Senator SMITH. At one time.

Mr. SMITH. That would have to rest on market rumors, a sort of general understanding. There have been times when a big speculator in Chicago was credited with being long 15,000,000 bushels. Whether that is correct or not I can not say. It was accepted around the exchange at the time of one bull market, when I was in Minneapolis. At other times several men have been credited with being long or short 10,000,000 bushels each.

Senator SMITH. I think the object of this bill and of all bills attempting to regulate this matter is to bring speculation—trading, buying, and selling—as near to a real reflection of the law of supply and demand as possible. Is it your opinion that if we were to restrict any one individual or pool to a limit of a maximum of 1,000,000 bushels at any one time, or in any one month, it would have that tendency?

Mr. SMITH. That is my opinion; yes, Senator.

Senator GOODING. How much is there in the story, Mr. Smith, that just before harvest or at harvest, when the wheat is in the farmer's hands, it is always the lowest, and the market is so manipulated that the advance usually occurs after the bulk of it has left the farmer's hands. Is there any truth in that story? We have heard that often, you know.

Mr. SMITH. I have never checked up—I have made comparisons but, as a general proposition, prices are lower when the heavy crop movement is on, and that is where speculation on the bear side enters in to some extent. Of course, there is hedging—selling in the futures market by elevator companies as they buy wheat in the country.

Senator GOODING. They have to buy just as cheaply as they can from the farmer.

Mr. SMITH. That is not the point, exactly, Senator. The country buyer of a line elevator company does not care whether he pays 70 cents or $1 for wheat, if he can promptly hedge his wheat. He is not interested in buying cheaply.

Senator GOODING. But the point I was trying to make is that as soon as the crop movement begins, hedging begins. That is a weight on the market, of course.

Mr. SMITH. If crop conditions are favorable the professional speculator, and also the public, will turn to the bear side and sell. Now, the buyers at that time may be the mills, and either the exporters on this side or the importers in Europe. The exporter will sell wheat to Europe, and then he will give an order to buy, the pit to buy. The exporters and the mills are the buyers at that time. If hedging and speculative short selling is heavier than that buying, the price goes down; but, of course, there are times when the public may buy to some extent, too. There are these three classes of buying: The public, the mills, and the exporters, but the public is probably not buying at that time.

I have seen an instance where crop conditions were very favorable along just at the beginning of the crop movement. The professionals were short and bearish, and the elevators were hedging, and the prices went down for a time. Then they seemed to strike bed rock, and nobody knew at first who was buying; but it appeared

afterwards that the mills were selling great volumes of flour and were buying in the futures market. That checked the decline, and when the shorts started to cover there was an advance.

But often the professional speculators, if crop conditions are good, are on the bear side during the early crop-moving season, because then the price goes down easier than it goes up.

Senator SMITH. Is not that largely caused, Mr. Smith, by knowledge of the fact that a 12-months' supply produced in the previous crop year by the farmers must find a market somewhere within 30 to 90 days, and somebody must take that supply and provide storage room, elevator room, to distribute it, and wait for the normal demand for the succeeding months to take it off his hands?

Mr. SMITH. Yes, sir; that is correct.

Now, to turn to the other side, when the big speculators or professionals take the buying side—this is a general proposition, it is not always true—I think it was the second year of the war, when the crop movement was on and it was heavy. The elevator companies were hedging and so the big speculators, who were bullish, waited before becoming aggressive, until the bulk of the crop had been marketed.

About the first week in January the big speculators began to buy heavily and to put out the bull news. This started the market up, and there was a big advance. The professionals waited for just the right time. Most of the hedging was over and the bulk of the crop was moved. After the first of the year, in the spring wheat markets, the elevator companies begin to take off their hedges, which has an upward influence on the market, of course, and that helps the bull speculators.

Senator GOODING. Tell me how they put out bull news? Is there an organization putting out propaganda one way or the other, just to suit the manipulators?

Mr. SMITH. No; it is done through the market reporters—through the daily papers, largely—they always want to write the latest news and the latest sentiment in the market.

Senator GOODING. They take the cue from the man that knows what is going to happen?

Mr. SMITH. If sentiment generally on the exchange is bullish, they express it in their reviews. I did in my writings for four years, and also the bear side of it; but I tried to picture sentiment as well as the actual news.

Senator CAPPER. Do not the members of boards of trade and commission men send out wires to warehouses all over the country, putting out all sorts of propaganda as to droughts and rains or anything of that sort that will affect the market, and do they not do everything they can in that way to influence the markets?

Mr. SMITH. Yes; but I should not say that they exaggerate it. There are some restrictions placed on such matters by the board of trade. The board has some restrictions on the news that is disseminated by its members; but if people feel bullish they are entitled to say so.

Senator CAPPER. Yes.

Mr. SMITH. And if some big trader is supposed to be bullish it is legitimate to say so.

Senator GOODING. The newspaper man does not follow the little fellow at all?

Mr. SMITH. No; naturally.

Senator GOODING. But he follows the big fellow, so that if the big fellow puts out his news he puts it out in his own interest, of course. That is only to be expected. So when the country gets the news it is to the benefit of the big dealers. Is not that true very largely?

Mr. SMITH. Yes.

Senator GOODING. And it has its effect, of course?

Mr. SMITH. Yes. Some of the big speculators are what might be called "lone wolves." They do not say anything; they do not talk for publication.

Senator GOODING. Are they buying the grain, or what?

Mr. SMITH. They may be buying or selling. There have been a few speculators——

Senator GOODING. Is that the phrase that is generally used—"lone wolves"?

Mr. SMITH. Perhaps not generally, but that is what they are.

Senator GOODING. Well, is it used; are they known as "lone wolves"?

Mr. SMITH. That is not exactly a trade term.

Now, I would like to mention one man but I do not want it to go into the proceedings. Will that be possible, Mr. Chairman?

The CHAIRMAN. What is the question?

Mr. SMITH. I would like to mention the name of a big trader, but I do not care to have it go into the proceedings.

The CHAIRMAN. Yes; that will be allowable, but I want to warn you that it will go to the country if you do that. The newspaper men can not be restrained from sending it out.

Mr. SMITH. Then, I will not mention it.

A few years ago there was a big bull campaign being conducted by a prominent Chicago trader who was different from these men I was speaking of here. He talked for publication, and when the market was boiling at white heat he had front-page articles in the Chicago papers and in papers in other cities. Reporters would come to him and he would tell them about the bullish conditions and about how high the price was going. Of course, that excited the public and induced lots of outside buying. Along about the time when he was talking most bullish, his brokers were selling wheat, and that was the top of the advance.

Senator GOODING. These brokers are just human, are they not; they are just human like other people, with the same amount of selfishness, like the majority of people, except it may be developed to a higher degree than most people have developed it? Is not that about the situation that you see on the boards of trade?

Mr. SMITH. I do not see that they are any different from other people.

Senator GOODING. But these things can be developed, you know?

Mr. SMITH. Oh, yes.

Senator SMITH. Mr. Smith, I would like you to explain to the committee the hedging transaction by the elevator man, so that we may have a clear idea of the effect on the market of what is known as hedge selling. What is hedge selling?

Mr. SMITH. There is hedge selling, and there is also hedge buying.

Senator SMITH. Of course, it goes on both sides. Now, I just want to state to you before you do that, that I have found a great deal of difficulty in trying to get through my legislation in reference to dealing in cotton. Hedging in cotton is an insurance against any fluctuation to the millman. He can consume a thousand bales of cotton in the filling of an order, and the cotton is 10 cents a pound that day. He finds there is a margin of profit in buying the cotton at 10 cents and selling the cloth that day at the price that the purchaser of the cloth offers him. That is to be filled 60 or 90 days or six months in advance. As soon as he takes an order that will consume, let us say, a thousand bales of cotton, he immediately accepts it, and then he buys, not in the open market, but he buys contracts for 1,000 bales on the New York exchange.

Now, he is insured against any loss whatever on that contract, for the reason that he has bought this contract. If cotton goes up a cent a pound and he has to go on the open market at the time he has to convert this contract into actual cloth, he has got to pay 11 cents, say. It has gone up a cent a pound, but he has made 1 cent a pound on the exchange, assuming that the future goes up and down as the spots do, which it generally does. So he takes the dollar that he makes there and puts it against his loss and he still gets his cotton, as far as he is concerned, at 10 cents.

Suppose it goes down a cent a pound. He has lost a cent a pound on the exchange, because he bought at 10 cents. It is now down to 9 cents, but he goes to the open market and buys his cotton at 9 cents, and he has sold it on the basis of 10 cents. So he has absolutely hedged and he is secure against fluctuation. The same rule works on the grain exchange, does it not?

The CHAIRMAN. Senator Smith, I think you have answered your own question in making that statement.

Senator SMITH. Well, I did not know what the operation was as to wheat. He said they actually bought the spot wheat, and I can not see how one buying actual spot wheat could hedge an actual spot purchase, because if the millman actually bought the cotton at 10 cents a pound, if he actually bought the spot cotton on the day he sold the goods, he would not need any hedge, because he had his cotton and he had his cloth sold; but hedging is to take care of a commitment for delivery of a thing when he does not own that thing, or he is going to sell whatever is manufactured out of that thing.

Mr. SMITH. The principle is exactly the same in the wheat market, Senator, but it is only theoretically true. That is because of the premium that cash wheat usually rules over the future.

When there is a premium it works to the disadvantage of the miller, and the market is in such condition that the elevator can not hedge. The miller sells flour for delivery in 30 or 60 days, and he places an order to buy futures to offset that sale. He is now protected, theoretically.

Senator SMITH. Just as the cotton men do.

Mr. SMITH. If I could wait until the delivery month and take delivery of that wheat, and if that wheat were of a grade or quality that he could use, he would be perfectly protected. But he goes into the cash market and he finds that cash wheat is at a premium of 8 or 10 or 12 or 20 or even 40 cents, as it is in Minneapolis, over the future,

and his hedge does not amount to much, unless he has allowed for that big premium.

Senator LADD. Would the wheat they would deliver to him on this hedge be of such a quality as he would want to use?

Mr. SMITH. Probably not.

The CHAIRMAN. Mr. Smith, does it not often happen that the miller, in the case you put, hedges, as you say, if he has sold? He sells the same amount on the market, but, as a matter of fact, when he comes to get the wheat to make his flour with he buys it from sample or otherwise and gets the actual wheat that he wants?

Mr. SMITH. He has to do that.

The CHAIRMAN. So that when he hedges, he does not intend to carry out either one of those contracts; one offsets the other?

Mr. SMITH. The reason the miller does not frequently take delivery of the wheat is because the wheat that would be delivered to him is of such low grade and poor quality for the grade.

The CHAIRMAN. He may not be able to use it?

Mr. SMITH. He may not be able to use it, and then when he goes into the cash market, with premiums on the futures, as there have been recently, to buy his cash wheat, he has to pay a big premium over what he paid for the future.

On the other hand, when there is a big premium over the future for cash wheat, the elevator company hedging cash wheat is selling the future at a discount. For instance, a few weeks ago he might have bought cash wheat at $1.50, while to hedge he would have been compelled to have sold the May future at $1.50, or approximately that price. At this time, the July future is the next hedging month, since May has gone by. To buy cash wheat now, a dealer would have to pay around $1.60 or $1.70 for it, and July future is around $1.28. I am not certain of the exact quotation. That makes it impossible for him to hedge. It is entirely out of the question.

Senator SMITH. So that hedging in wheat is based upon the difference between the spots, that you must pay for the cash wheat, and what the future is?

Mr. SMITH. That is right.

Senator CAPPER. Mr. Smith, you suggested, I believe, a limit of a million bushels on the speculative transactions of any one individual. Are there any considerable number of operators on the boards of trade who carry transactions exceeding a million bushels?

Mr. SMITH. The number is limited, as compared with the total number of those who trade, but knowing what the general market gossip and rumors are, I think there are quite a number that trade in a million or more; every market center has a few, while Chicago and New York have many.

Senator CAPPER. In the last six or eight months what have been the rumors as to large transactions by operators on the Board of Trade in Chicago, that have come to your attention, or have you heard of any?

Mr. SMITH. There have not been rumors of any large individual trading in the last few weeks, none that have come to my attention.

Senator GOODING. If speculation in this country were eliminated, Mr. Smith, what is going on in other parts of the world would not amount to much at the present time. Most of the speculation in grain, practically, is in America, is it not?

Mr. SMITH. In grain futures, yes.

Senator GOODING. And if it were eliminated in this country, what is your thought as to what the general effect would be. Would there be a more stable condition?

Mr. SMITH. It would, of course, destroy the futures markets. What effect that would have over a period of years on the average price I can not say, and I do not believe anybody else can.

Senator GOODING. No; I think that is true, but it seems to me that this must be admitted, that on account of these wild fluctuations, it is the producer that gets the worst of it; he is the one that suffers from the extremes that come about?

Mr. SMITH. I am inclined to think both the producer and the consumer suffer.

Senator GOODING. Well, that is the point, of course. That is what Congress, of course, is seeking to remedy. It is just that evil. How far this bill will go toward that, of course, is problematical.

The CHAIRMAN. Go ahead with your statement, Mr. Smith.

Senator LADD. Mr. Smith, there has been a statement made recently that a large number of great minds were working constantly on the marketing problems for the purpose of proving a benefit to the farmer. What have you to say in regard to that?

Mr. SMITH. I have heard references to the great minds in the grain trade on the price question. Perhaps that is what you have in mind, Senator.

Senator LADD. Yes; that is what I have in mind.

Mr. SMITH. It has been assumed by some economists and others, that because "the best minds in the grain trade" are constantly trying to adjust prices to conditions, the general average of prices made on the grain exchanges must be correct. I think some economists take that position. That may be true as to the average, but the average does not mean much to anybody. It is the big fluctuations that the producer and consumer and the miller have to contend with. Such fluctuations are principally, I might say, due to superficial conditions. It may be that speculators are trying to arrive at a certain price basis, based on conditions, but they forget those conditions in a bull market, as they have had recently, and also during a bear market such as that of last March. The price has gone up recently, largely because of a crop scare and because of a squeeze in May wheat.

Senator GOODING. A crop scare where—in what country?

Mr. SMITH. In Kansas and Oklahoma, principally; and partly in Missouri and southern Nebraska—dry and hot weather that was injuring the grain.

Senator GOODING. Has that weather continued?

Mr. SMITH. We have had some relief, I believe, by rains. I have not seen the condition for the last 24 hours down there.

Senator CAPPER. Are not the speculators the ones who are most active in promoting crop scares?

Mr. SMITH. Yes; the speculators are, and of course, all of the market writers emphasize such things.

The CHAIRMAN. Well, Mr. Smith, if there is dry weather in the wheat districts, or if some other calamity affects the crop, is not that a proper thing to take into consideration? It would naturally affect the market, would it not?

hedge, expecting to sell the May when they bought the cash wheat; but they were unable to readily buy cash wheat, so held their May contracts. That caused a large part of the "almost-corner" in Chicago May wheat.

The CHAIRMAN. Now, you are speaking of that operation. Has a person the right to require delivery of the wheat when he has bought under a contract on the Board of Trade?

Mr. SMITH. Yes, certainly.

The CHAIRMAN. And does that happen very often?

Mr. SMITH. Not very often; no.

The CHAIRMAN. Well, where they are buying speculatively, and there are more speculative purchases than there is wheat, if all of those people who had bought demanded that wheat, it could not be delivered, could it?

Mr. SMITH. It could not be done.

The CHAIRMAN. What would happen then?

Mr. SMITH. Wheat would be cornered.

The CHAIRMAN. Would the price go up, then?

Mr. SMITH. It would go up. On settlement day, the last day of the month, there would be a settlement at a price difference. There is a committee of the Chicago Board of Trade to settle that question.

The CHAIRMAN. But the man who bought the wheat would say, "I want my wheat."

Mr. SMITH. He would have to settle at the price difference.

Senator NORBECK. He could not compel delivery of the actual wheat?

Mr. SMITH. No; he might demand it, but he could not compel delivery of it.

Senator GOODING. He would have to be satisfied.

The CHAIRMAN. He could not compel delivery any more than you could compel the specific carrying out of any other contract, but his measure of damages would be the difference in the price, I presume; so that if he would go into court on that particular contract the amount of his recovery would be measured by the difference in the market price, would it not?

Mr. SMITH. Yes; I believe that is the case; but if he were a member of the board of trade he would have to abide by the decision of the committee.

The CHAIRMAN. So, then, as a matter of fact, delivery can not be compelled; that is impossible, is it not?

Mr. SMITH. That is an impossibility.

Senator NORBECK. Are those contracts enforceable in the courts?

Mr. SMITH. I can not say anything on that point, because I do not know.

Senator NORBECK. Do they frequently get into the courts?

Mr. SMITH. I doubt if they do. I believe they are settled by arbitration.

Senator NORBECK. Then, the question of the remedy is settled either by arbitration or by the board instead of by the courts?

Mr. SMITH. I believe there is a committee that does that.

Senator GOODING. Do they make settlement each month on this board?

Mr. SMITH. No; it is seldom that it is necessary to make any, because it is seldom that this condition exists.

To return to your question, Mr. Chairman, about the limiting or scaling of the amount downward of open trades. If there were now a limit and if it had been arbitrarily changed a few weeks ago, say, to 200,000 bushels, it would doubtless have brought about a normal condition in May wheat. There was no wheat in the elevators to trade against; speculators and others were trading without any basis or foundation. Every bushel of May wheat that was bought and sold for several weeks past was without the hope of delivery, or acceptance of delivery, except a very small amount.

The CHAIRMAN. That is practically all gambling, is it not?

Mr. SMITH. Not exactly. Some of it might have been legitimate hedging on the part of the exporters who bought it, if they did, but anyone that sold it knew that he was not going to deliver any wheat, thought some wheat might have been purchased afterwards to bring in there and deliver by some one who was being squeezed.

The CHAIRMAN. Now, on the hedging proposition that you speak of, assuming that conditions are such that it is not advisable to make it legal, and you hold, as I understand you, that "legitimate hedging," as you call it, is simply an insurance, why do they have to use wheat in that kind of insurance? Why could not the same thing be done by a regular insurance company that would be organized for that purpose? In other words, is it not true, after all, that all hedging is a gamble?

Mr. SMITH. No, Mr. Chairman, it is not; but there is a little element of chance, because of the fluctuations of the price of cash wheat as compared with the futures.

The CHAIRMAN. Maybe I was unfortunate in the use of the word. Is it not all speculation?

Mr. SMITH. No; it is not all speculation.

The CHAIRMAN. Give me an instance where it is not. I am not contradicting you, Mr. Smith.

Mr. SMITH. I understand.

The CHAIRMAN. You are an expert, and I want to have you make it plain. Now, give me an instance where hedging is not speculation.

Mr. SMITH. It is seldom speculation—I will give you the instance later—only to a limited degree, where the price of the cash grain may fluctuate from the price of the future. The simplest form of hedging is where a country elevator man buys wheat and sells against it in the futures market. We will say that he buys 10,000 bushels of wheat to-day in the country, and places an order in the futures market to sell the same amount he bought. We will say that he bought at $1.50 per bushel and the future may be $1.55. He sells 10,000 bushels in the futures market. There is no speculation about that. He will ship the wheat when he can get cars, or when conditions are suitable, with the instructions to a commission house to sell on arrival and buy back his future; that is, he buys back 10,000 bushels in the futures market at the same time that he sells the cash grain on the cash tables of the exchange.

The CHAIRMAN. In connection with that operation, when he sells in the futures market his 10,000 bushels, he does not expect to have to deliver it?

Mr. SMITH. No.

The CHAIRMAN. He knows that there will be no delivery?

Mr. SMITH. Yes; he knows that.

The CHAIRMAN. Now, is not that speculation, after all? I do not mean it in any disrespectful sense. I do not mean that it is dishonest, or anything of that kind, because we all speculate. We buy a horse without any idea of using it ourselves, because we think it is cheap and we expect to sell it for a higher price. I am not saying that it is illegitimate business, but it seems to me that it is speculation just the same. The same thing that moves a man who is not an elevator man moves him. An elevator man in your case has bought 10,000 bushels of wheat from the farmer. Now, he sells 10,000 bushels on the market, so that if he loses on one he will make on the other.

Mr. SMITH. Yes.

The CHAIRMAN. Even the purchase of the wheat from the farmer is speculation. He did not expect to eat it. He was going to sell it again, and it was an operation on his part to make money.

Mr. SMITH. It is not speculation, Mr. Chairman, for this reason: He does not expect to make or lose anything by it in the operation.

The CHAIRMAN. Well, on the whole operation, he expects to make some money, or he would not be running his elevator.

Mr. SMITH. He bought it at a margin of profit.

The CHAIRMAN. Yes; I understand.

Senator GOODING. Where does he buy the futures?

The CHAIRMAN. He sells the futures in that case.

Senator NORBECK. Who is the buyer of these 10,000 bushels?

Mr. SMITH. He may be a miller or a speculator or any trader.

Senator NORBECK. If he was a speculator, of course, it would be a speculative transaction.

Mr. SMITH. It may be a speculative transaction by the one who bought it.

Senator NORBECK. Yes; that is the point.

Mr. SMITH. Yes; it would, of course.

The CHAIRMAN. He does not know that, though.

Mr. SMITH. No. That is done through the broker of the commission house.

The CHAIRMAN. The elevator man may be in Nebraska, and the other fellow may be up in Maine. They never know each other.

Mr. SMITH. As I have said, the only element of speculation is in the fluctuation that there may be in the cash price of wheat as compared with the future. He might gain or lose a cent or two on that.

The CHAIRMAN. The thing I can not understand fundamentally, Mr. Smith, is why hedging, which we all claim, and I think all admit, is a legitimate operation for an actual purchaser, is simply an insurance. Why should we, in our commercial transactions, select these things that are bought and sold on the board of trade and insure them, and not have it apply to everybody else? If I buy a piece of land because I think it is cheap, and I never expect to farm it or move on to it, and then sell it again, why should there not be some organization on which I could rely in that transaction? Why should not the man who buys wheat be subject to the same rule of commerce that the farmer is, or the local dealer who buys hogs in a town lot? Why should there be any difference; why does not the same rule of trade apply to all of them?

Mr. SMITH. Mr. Chairman, that touches on a sort of nerve center of the whole system. Permit me to put it in the way of a question.

Why should a vast volume of speculation by the public, the professionals, the cash grain men, elevator companies and others, continue to go on just to create an insurance market for a few grain dealers? That is what it amounts to.

The CHAIRMAN. If you ask me, I say I do not know why.

Mr. SMITH. Neither do I, but that is the situation.

The CHAIRMAN. I do not see any reason for it.

Senator GOODING. The thing I feel I am interested in, and that I presume every other member of the committee is interested in, is what is the effect of that, as far as the producer and consumer are concerned? Why should these men make an undue profit in their speculation on wheat as a whole, or why should they bring about an unstable condition?

Mr. SMITH. There is an unstable condition, caused by the great fluctuations. If the farmer were something of an expert speculator himself, he could take advantage of the big advances when he has grain on hand and sell, but he won't do it. On an advancing market the farmer sells a very small amount, like the public. When the price goes up, the public is excited and buys, and will not sell.

Senator GOODING. He does not know when the top is going to be reached?

Mr. SMITH. A farmer keeps holding his grain, and then he sells it on the big decline that almost always follows. Therefore, the advances benefit the farmer very little.

There is one point regarding hedging on an advancing market that may be mentioned. It often happens that some of the elevator companies—not all of them, of course, but some of them—will remove their hedges. When there is a real bull market they will take off their hedges and carry unhedged wheat. Taking off their hedges—buying what they had previously sold—helps the advance along. When they think the advance has gone far enough they rehedge their wheat. On a steadily declining market they will hedge more than they have; that is, they speculate on the short side. Therefore, to say that cash grain dealers and millers and elevator companies do not speculate is simply to state what is not true, for some of them do. The grain trade is permeated with speculation, and the limit of 1,000,000 bushels that I have mentioned would remove or limit the large speculators, the ones whose speculations amount to manipulation. The rest of the market would fairly well take care of itself. A large volume of small transactions is more nearly equalized. It does not go first in one direction, and then in the other so suddenly as to cause violent fluctuations.

The CHAIRMAN. Now, if you should make hedging illegal by taxation or any other method, then the sales and purchases of grain would be based on the actual grain, would they not?

Mr. SMITH. Yes, sir.

The CHAIRMAN. There would not be any fictitious sales or purchases; would not that follow?

Mr. SMITH. Of course, though there would be some speculation in cash grain.

The CHAIRMAN. If we prohibited this hedging and fictitious sales—and, as I look at it, it is one method of fictitious sale—then we confine the operations in grain to the actual grain itself.

Mr. SMITH. Yes, sir.

The CHAIRMAN. If you did that would not that put it on the basis of every other commodity?

Mr. SMITH. Certainly.

The CHAIRMAN. Why should we not do that? Why should there be any exception? Why should we permit any gambling and fictitious deals in foodstuffs that do not obtain in the ordinary transactions of life? What is the necessity of the exception?

Mr. SMITH. I do not know that there is any, unless it is to furnish hedging markets for the grain trade.

Senator GOODING. Well, they do not participate in this just for the excitement of it, do they?

Mr. SMITH. No.

Senator GOODING. There is something besides that.

The CHAIRMAN. Now, if there is any profit made out of it, does it not come out of either the producer or the consumer, or both? Who else is to pay the bill?

Mr. SMITH. The profit by whom, Mr. Chairman?

The CHAIRMAN. By these people who deal in fictitious trades based on wheat and other grains?

Mr. SMITH. I think the public that speculates pays the bill.

Senator GOODING. You think they are greater losers than the farmers or the growers?

Mr. SMITH. I think so; yes.

Senator GOODING. You think they are the boys that are fleeced right along?

Mr. SMITH. I think 95 per cent of the public that speculates lose their money.

Senator NORBECK. In other words, the farmers out in the country who are speculators help to pay for the game?

Mr. SMITH. Yes; there is no doubt about that.

The CHAIRMAN. When you speak of "the public" speculating, you mean the men, the ordinary individuals who send in orders to be carried out on the board of trade? Is that the class of people you mean?

Mr. SMITH. I mean anyone who is not a member of a grain exchange who trades or speculates.

The CHAIRMAN. Well, if they lose money, who makes the profit?

Mr. SMITH. The professional speculators that survive.

The CHAIRMAN. Some of those go down, of course.

Mr. SMITH. Yes.

The CHAIRMAN. Well, if they go down and lose, some other speculator makes that much more then; is not that true?

Mr. SMITH. Yes.

Senator LADD. Is there pretty nearly a monopoly of that speculation? I find the statement here that—

> Four concerns in Chicago hold the fate of future trading in Chicago in their control.

Does that indicate a monopoly there, or what does that mean?

Mr. SMITH. I think that means, Senator, that by controlling the few public elevators in Chicago they control the deliveries of wheat or grain on future contracts. If they were to close up their elevators or, rather, withdraw them from the classification of "public" elevators, so that there would be no public elevators in Chicago, there could not be a futures market there unless it was without a foundation

or basis at all. There must be, theoretically, at any rate, stocks of grain in public elevators as a foundation or basis for a futures market.

Senator LADD. Then, those four concerns must practically control or monopolize the warehouses, do they not?

Mr. SMITH. If that statement is correct, that is unquestionably true.

The CHAIRMAN. Well, do you think that statement is correct?

Mr. SMITH. I think it is.

Senator LADD. Would that account, that possiblity of monopoly, for the increase in price for the holding of grain for a year between 1894 and the present time, of from nine and a fraction cents to 19 20 cents, or is that due to other causes?

Mr. SMITH. The contrary should be the effect, Senator, because at that early date there were small wooden houses—wooden elevators. When concrete and other fireproof elevators were built, the insurance was almost eliminated. They carry little insurance, the fireproof houses, or comparatively little; so that the cost of carrying grain is much less in modern houses than it was in 1894.

Senator LADD. I also find this statement, that the grain could be held in storage for one year in 1894 at a total storage charge of nine and a fraction cents per bushel, but in 1920 it costs 19 cents per bushel for storage to carry the grain a year in these so-called public warehouses. I do not know just what is meant by "these so-called public warehouses."

Mr. SMITH. I think it means that they are so in name principally.

Senator LADD. Under the control of individuals?

Mr. SMITH. Yes.

Senator NORBECK. I want to ask a few more questions, just to clear up the matter.

If a thousand men are operating on the board, it is their main line of business; they have to live off of it. Whether they ultimately succeed or fail in business, they have to be making a daily profit. Can that profit, that income, come out of anybody except the producer or the consumer?

Mr. SMITH. I would put it the producer, and the part of the public that speculates. Of course, if speculation is influential in advancing prices, that hits the consumer; but I am not considering that part of it.

Senator NORBECK. The other question I want to ask is this: Suppose we eliminate the board of trade, or eliminate certain features. Does that mean that the business can be carried on effectively right across the border, in Canada or in Europe, and have the same effect on our grain situation? In other words, will the prohibiting of speculation in this country have a material influence, or will it just be carried on in some other place, and the speculation in American wheat still go on?

Mr. SMITH. The great market would then undoubtedly be Winnipeg, which has an important grain exchange now, and there would be a big volume of speculation. What the rules of that exchange are, or the laws of Canada, I do not know, but the great volume of public speculation that has been done in this country never could be transferred across the line.

Senator NORBECK. It could not be?

Mr. SMITH. Proximity to the market has a great deal to do with it.

Senator CAPPER. Mr. Smith, you have made only one suggestion which changes this bill, and that is to place a limit on the volume of transactions. Have you any other suggestions or changes that you think should be made in this measure now before us?

Mr. SMITH. I do not think of any others, Senator.

The CHAIRMAN. I want to ask you about one, if you are going to talk about the bill itself.

Senator GOODING. I would like to get this statement out of Mr. Smith, if he feels that he can make it at this time.

In your opinion, from what you know of the market—and possibly you have answered this, Mr. Smith—do you think that the manipulation and speculation which is going on is such that the farmer is forced to take less for his product? As to the small speculator, you say that 90 per cent of them lose all the money they put in. I think that is what you said?

Mr. SMITH. Ninety-five per cent, Senator.

Senator GOODING. Ninety-five per cent; yes. Now, is that where the professional speculator makes his money, or does he manipulate the market to such an extent that he throws the market up after the wheat has left the farmer's hands and in that way the farmer suffers who sells to the speculator? In other words, it does not make any difference to him whether it is a farmer or speculator, as long as he can make a profit; he hits each of them when he gets a chance.

Mr. SMITH. Yes; it is all the same to him.

Senator GOODING. I should imagine so. He does not draw any line as to that?

Mr. SMITH. No.

Senator GOODING. Now, is it your judgment that the farmer does suffer from this speculation in wheat in the American wheat pit?

Mr. SMITH. I think it is, for the reason that he is more likely to sell his grain after an advance than sell on the advance. He does not take advantage of big advances for one of two reasons, and perhaps partly both. One is that at the time of an advance he has very little grain, and the other is that when the price is going up he thinks the sky is the limit and he thinks he will wait until it gets to the top.

Senator GOODING. Does speculation keep the market above normal?

Mr. SMITH. I do not believe it does.

Senator GOODING. You do not?

Mr. SMITH. No. It is claimed by some members of the exchanges that the price averages higher than it would without the system of future trading, but that is a matter of opinion. There is nothing to compare it with. If it is compared with conditions that existed 20 or 30 or 40 years ago it is not a fair comparison and there is nothing in recent times to compare it with.

Take 30 years ago and farther back. There was then a larger percentage of the wheat crop that was exported than now and there were not the facilities for marketing; there were not the small markets and there were not the established line elevator companies in the perfection they are to-day. There was not the great milling industry that there is now. Therefore, there was not the present competition. In recent years only a small percentage of an average crop of wheat in this country is exported, and that percentage is sought after by the importers on the other side. That brings about competition with the great milling industry in this country, for they

all buy wheat in great volume early in the season. Conditions are therefore altogether different from those that existed some years ago.

Senator GOODING. You are under the impression—and I suppose this would be a fair question, Mr. Chairman, to ask Mr. Smith—that a tariff might do the wheat growers some good at the present time?

Mr. SMITH. I think it would have a tendency to keep the prices a little higher in this country. We are not always growing a big surplus.

The CHAIRMAN. As I understand you, you think it would stabilize the market somewhat so that there would not be such violent fluctuations?

Mr. SMITH. Yes; I do.

Senator GOODING. For instance, if it is not out of place, Mr. Chairman, with your experience in dealing in grain, you no doubt remember the enormous importations that took place last October from Canada?

Mr. SMITH. Yes, sir.

Senator GOODING. Did that have a tendency to smash prices, to start a downward tendency in the price of wheat?

Mr. SMITH. It certainly did. Nearly everyone admits it now. They would not then.

The CHAIRMAN. Now, Mr. Smith, I want to call your attention to paragraph (e) of section 5 of the bill. As I understand it, the object of that is to require the grain exchanges to admit to membership farmers' organizations organized on the modern method of distributing profits at the end of the season. Do you think it does it?

Mr. SMITH. Yes, sir; I think paragraph (e) would do that. I find, beginning at line 7:

* * * If the same have the approval of the Secretary of Agriculture.

That is, the rules and regulations of the grain exchange. That is quite a complicated feature, I think.

The CHAIRMAN. You are familiar with the method of farmers' organizations now?

Mr. SMITH. Yes, sir.

The CHAIRMAN. And cooperative organizations?

Mr. SMITH. Yes, sir.

The CHAIRMAN. And you are aware that they are denied the privilege of obtaining membership on grain exchanges, because one of their fundamental principles of organization is that they divide the profits at the end of the season, or at a stipulated time, according to the amount of business that any individual did with the organization, and not according to the capital that he may own?

Mr. SMITH. Yes, sir; I understand that.

The CHAIRMAN. The draftsman of this bill, I understand, had in mind that this transaction would compel the admission to membership of those organizations, even though they were just organized. A doubt has been thrown on the matter, as to whether it would have that effect.

Mr. SMITH. It seems to me that it would.

The CHAIRMAN. In the first place, is it desirable that such organizations should be admitted to membership? Or, I might put it the other way: Can you see any objection to requiring that such associations of farmers be admitted to boards of trade and exchanges?

Mr. SMITH. Will you permit me to answer that by asking a question, Mr. Chairman?

The CHAIRMAN. Yes.

Mr. SMITH. Would it be constitutional; would it be of any avail to put that in that paragraph; could it be carried out?

The CHAIRMAN. It would be constitutional, if anything else in here is constitutional, I think. This is in the bill in this way: It provides that all of these sales shall be taxed, and then makes certain exceptions, and one of the exceptions is that if the board of trade permits certain things to be done, and this is one of the things to be permitted. That is the way it gets in. In other words, the operators on this board of trade will be taxed according to the bill unless they admit to membership such organizations. Now, I have not any doubt but that that would be constitutional, but for the purposes of the question I will waive that point.

Mr. SMITH. Let me answer that question, Mr. Chairman, in a qualified way. If I were still a member of the Minneapolis Chamber of Commerce or the Chicago Board of Trade, I should not object to farmers' cooperative companies having representation or membership.

The CHAIRMAN. Why do they object? Why do these boards object? As I understand it they do, and they have actually refused membership to those organizations.

Mr. SMITH. I think it is purely selfishness. They do not want them there. They think they will take away business from their members.

The CHAIRMAN. Evidently it is selfishness, of course.

Mr. SMITH. That is the only reason that I can see. It is a splitting of hairs.

Senator NORBECK. You can not conceive of its having any disastrous effect on trading or on the market?

Mr. SMITH. No. It might put a few of the small companies out of business and take away some business from some of the other companies.

Senator NORBECK. It might have this effect, as has been suggested, that it would drive them out of the market, so that there would be no market.

Mr. SMITH. I think that is absurd.

Senator GOODING. In other words, the sentiment is, what business has a farmer to sell? Is not that the sentiment, when you get right down to it? Is not that about the size of it?

Mr. SMITH. Yes; I think it is.

Senator GOODING. There is a lot of that going on. The reason advanced by some members of the exchanges against that is that it would lead to the dividing of commissions, the cutting of commissions. I can not see how it will.

The CHAIRMAN. Suppose it did, what is tke objection to doing that?

Mr. SMITH. The commission houses would not make as much money as they do now.

The CHAIRMAN. Do you mean to say that they object to it because fi the cooperatives got in the commission houses would not get so much in commissions or that the other operators would divide their commissions?

Mr. SMITH. The other operators would divide their commissions to get the business.

The CHAIRMAN. With whom would they divide it?

Mr. SMITH. With the country shipper, possibly.

Senator GOODING. They, the cooperatives, would be taking away a certain amount of their business. It would be a new force coming in and the volume would be less. They do not know what they may do; they may not be able to control them, and they may become a factor and upset some of their plans; is not that the idea, very largely?

Mr. SMITH. That is the whole thing, it seems to me.

Senator CAPPER. They do not welcome that competition. I would like to ask one question there, Mr. Chairman.

The CHAIRMAN. Go ahead, Senator.

Senator CAPPER. Mr. Smith, it seems to me, has made a very interesting and illuminating statement here as to this whole grain exchange question. I would like to ask him now whether he agrees with the general purposes of this bill as being good, and as to whether, if the provisions of this bill were framed into law, it would be helpful to the grain trade and the producer; that is, wheteher it heads in the right direction, and this measure is along the right lines and is good legislation?

Mr. SMITH. I think it most decidedly is. I think that if there were a simple bill providing for certain reports, with Federal supervision, and limiting open speculative trades held at any one time by one person to a million bushels, that is all that would be needed. The rest would take care of itself.

Senator CAPPER. Well, it attempts to take care of that in here.

Mr. SMITH. Yes.

Senator CAPPER. I was interested in what you said about crop scares and fake reports that are put out, and so forth. I do not know whether you have noticed this provision here, that grain exchanges are permitted to do business only:

> When the governing board thereof prevents the dissemination by the board or any members thereof of fake, misleading, or inaccurate reports, concerning crop or market information or conditions that affect or tend to affect the price of commodities.

Do you think that provision would be helpful and would tend to eliminate that evil?

Mr. SMITH. Yes; it is a good thing; but that is fairly well taken care of by the exchanges themselves now. They do try to check reports and the dissemination of market news sent out by members.

Senator CAPPER. And yet there is widespread complaint on that very point, that the wires every day are carrying all sorts of false and misleading reports as to the condition of the market.

Mr. SMITH. I think the reason for that, Senator, is that on the exchanges, in a speculative market, anything of momentary importance is overestimated—something that they will trade on now and forget to-morrow. A man away from the exchanges will consider and deliberate over it, perhaps, and then conclude to act, after everybody else has forgotten it, and something that is of momentary or of importance for an hour is of no importance the next day.

The CHAIRMAN. Now, Mr. Smith, is there anything else you want to tell us about your experience on the board of trade or of the operations of the board of trade?

Mr. SMITH. There are two things, one of them unimportant, but it illustrates the sensitiveness of the market to small matters at certain times, as I have seen it in my own experience.

After the big black rust scare in the Northwest in 1904 for the next two years everybody was looking for black rust. I was a member of the exchange at that time, and I had been doing some crop reporting on my own account. I drove out one Sunday, and I found a stalk of wheat that had a speck on it. The next day I took it over to the experiment station of the University of Minnesota and had one of their experts examine it. It was not as big as the head of a pin, the black rust spot. Finally he said it was a black rust.

Before the opening of the market the next day—we had a curb at that time, on which we would trade for half an hour before the opening of the market—I told some of the traders that I had found black rust. The price went up 2 cents on the curb, and it went up 2 cents more as soon as the market opened, on my report, which was wired to Chicago and the other markets.

Now, that is another illustration of the "great minds" that are trying to make the price fit the conditions. It was not exactly a fake. No one could deny that there was black rust, but it was altogether improbable that the discovery was of any importance.

The CHAIRMAN. Was it black rust?

Mr. SMITH. It was black rust, but there was no damage that year.

The CHAIRMAN. Now, in telling that incident you said that you traded for an hour on the curb. What do you mean by that?

Mr. SMITH. Half an hour, I believe it was. The curb was afterwards stopped. All traders were permitted to begin trading half an hour before the opening of the regular market, and trades that were made then were confirmed as soon as the market was opened; the brokers would check them off with another broker.

The CHAIRMAN. What was the curb?

Mr. SMITH. It was simply a name. Trading was on "the floor" of the exchange.

The CHAIRMAN. The effect of it was really to open the exchange half an hour before the regular time?

Mr. SMITH. Yes; that is it.

The CHAIRMAN. What is meant by the term "puts and calls"?

Mr. SMITH. It is a simple thing, and yet it is a little difficult to explain to one who is not thoroughly familiar with the market. It is the buying of a privilege. A put is the buying of the privilege of "putting" or selling some wheat at the close of the market the next day to the person who sold the put. For instance, if the market closed at $1.50 and I went to my broker and said, "Sell me five puts," he would say, "I will sell you five puts at $1.45."

The CHAIRMAN. $1.45 what?

Mr. SMITH. $1.45 per bushel. "Five" means 5,000 bushels.

The CHAIRMAN. You mean that a put means 1,000 bushels?

Mr. SMITH. Yes.

The CHAIRMAN. All right; go ahead.

Mr. SMITH. And to-morrow if the market closes below $1.45 I could put or sell him 5,000 bushels at that price, or if it should go down to $1.45 during the session and I wanted to take advantage of it and buy there, I could do it without any fear of a loss, because if it went still lower

I could "put" the wheat, meaning to sell it at $1.45 at the close of the market to the man who sold me the puts.

The CHAIRMAN. The effect of that would be to give you the right to buy of that man 5,000 bushels of wheat at any time between then and the close of business the next day; is that right?

Mr. SMITH. No; I could buy of anyone. I could buy in the open market.

The CHAIRMAN. Now, to get the right idea, you would go to a broker and say, "I want to buy some puts," and he would say, "I will sell you five puts at a certain price." You would pay it, and that would give you the privilege of buying from that broker at the price named 5,000 bushels of wheat at any time until the close of the next day's market; is that it?

Mr. SMITH. No; that is not it.

The CHAIRMAN. Then, tell me what it is.

Mr. SMITH. If the price should go down to $1.45 the next day, and I wanted to buy, I could buy in the open market of any broker, with the assurance that I would not lose anything if it went still lower, because I would have the puts. I would have the privilege of selling at $1.45 to the man of whom I bought the puts, if the price closed at $1.45 or lower.

The CHAIRMAN. You just transferred your contract with the fellow that sold you the puts to the broker to whom you sold?

Mr. SMITH. In substance, yes.

The CHAIRMAN. Well, in other words, is not my illustration true, then? If it is not, explain why it is not. You can buy of the ma who sold you puts at any time?

Mr. SMITH. Or of anyone else.

The CHAIRMAN. Well, yes; but if you do not buy from him, and you sell your right to buy from him to somebody else, the other fellow takes your place in the transaction, does he not?

Mr. SMITH. No; that is a separate transaction entirely. There is nothing between me and the man who sold me the puts until the close of the market the next day. Now, if the market closes at $1.45 or lower—it might close at $1.40——

The CHAIRMAN. All right, suppose it does. Take a real case and illustrate it.

Mr. SMITH. We will say it closes at $1.40 the next day, and then at the close of the market I would go around to him and say, "I sold you the 5,000 bushels of wheat at $1.45."

The CHAIRMAN. No; but you had bought from him.

Mr. SMITH. No; I bought the privilege of selling to him, merely.

The CHAIRMAN. Well, that is it.

Mr. SMITH. Yes; I bought the privilege of selling to him.

Senator LADD. If you were able to get it at $1.40 you could make him take it at $1.45?

Mr. SMITH. Yes.

The CHAIRMAN. That is sure gambling.

Mr. SMITH. Yes; entirely.

The CHAIRMAN. What is a "call"?

Mr. SMITH. A "call" is just the reverse. I buy the privilege of calling or buying, if the market closes at a certain price to-morrow. If wheat closes at $1.50, I go to the broker and say, "I should like to buy five calls." He might sell them for $1.55. I pay him $5 for

the privilege of buying 5,000 bushels of wheat of him at that price, if the market closes above that to-morrow. There is nothing doing with him until the market closes to-morrow, and if it closes at $1.60, we will say, then I would go to him and say, "I bought 5,000 bushels of wheat of you at $1.55." I might sell it at any time I wanted to, but I could not confirm the trade with him until the close of the market.

The CHAIRMAN. Then you "call" him?

Mr. SMITH. Then I "call the wheat" of him.

The CHAIRMAN. And if wheat had gone up you would pay him the difference?

Mr. SMITH. No; I might sell it to some one else.

The CHAIRMAN. Well, I am assuming that you did not.

Mr. SMITH. I might have sold it in the open market.

The CHAIRMAN. Well, as a matter of fact, somebody would have it?

Mr. SMITH. Yes.

The CHAIRMAN. And that would transfer it to him?

Mr. SMITH. No; he may have protected himself.

The CHAIRMAN. Oh, yes; I know; he might hedge on that.

Senator GOODING. And somebody else get it.

Mr. SMITH. Yes.

Senator GOODING. What proportion of the wheat business is transacted by puts and calls?

Mr. SMITH. I do not know what the percentage is.

Senator GOODING. There is more or less business of that kind done?

Mr. SMITH. A considerable volume of it.

Senator GOODING. That is just one phase of gambling, is it not?

Mr. SMITH. That is purely gambling.

The CHAIRMAN. Is that allowed on the grain exchanges now?

Mr. SMITH. The Minneapolis Chamber of Commerce has never recognized it. It is done, however. The traders go out in the smoking room and trade after the market, but the exchange does not recognize it or pay any attention to it. In Chicago it has never been officially recognized, I believe, but it is done in large volume there.

Senator CAPPER. In section 3 of this bill, Mr. Smith, it levies a tax of 20 per cent per bushel in all transactions done in puts and calls. What would be the effect of that provision?

Mr. SMITH. That would wipe out trading in puts and calls.

The CHAIRMAN. If this is only done on the side, how would that be enforced by the board? Would there be any particular difficulty in enforcing that?

Mr. SMITH. Rules of the exchanges might make it impossible for traders to confirm such transactions. If there are any trades against puts and calls, the brokers have to confirm them at the close of the market.

Senator GOODING. Could the board of trade be held responsible for the violation of this law in this respect on puts and calls?

Mr. SMITH. I don't know about that

Senator CAPPER. This bill gives the Secretary of Agriculture authority to put them out of business.

Mr. SMITH. If the exchanges want to, they can control their own members.

Senator CAPPER. They could suspend them.

The CHAIRMAN. They would have to provide by rule that their members should not gamble.

Mr. SMITH. They could stop that by rule, of course.

The CHAIRMAN. And they would have to be able to prove it if they undertook to enforce the rule and expel them.

Mr. SMITH. I do not know whether what I am going to say is germane to this subject. It is that I have never seen that puts and calls had any great bearing on the market. Yet sometimes they act as a curb on advances or declines. I have seen them stop a runaway market and again check a decline; that is, trading against them had this effect.

Senator GOODING. What is the object of puts and calls? Can they not get enough action in the pit to suit them, and do they want to do a little business on the side?

Senator CAPPER. They simply want to get into a straight gambling deal.

Mr. SMITH. The object is this. There are lots of people who will pay $5 or $10 or $20 just for a gambling chance. The sellers are professionals, scalpers, most largely. They are willing to take a chance of protecting themselves in the market the next day, if it should go against them.

The CHAIRMAN. What is a scalper? Define that.

Mr. SMITH. The scalpers are men who stand in the pit and trade on their own account, just on the fluctuations of the market. There are some men who used to make it a business, and I presume they do it now, selling 10 or perhaps 20 puts and as many calls every day, and they make a good deal of money at it because they are expert traders.

The CHAIRMAN. Are you through, Mr. Smith?

Mr. SMITH. I just want to say one more thing, and it will not take more than a few minutes.

The CHAIRMAN. All right.

Mr. SMITH. That is, reverting to the question of the great volume of speculation that comes occasionally. This has suggested to me the speculative commission houses. That is, commission houses whose members speculate on a large scale on their own account. That is one of the evils of the exchanges; an abuse of the system. The evil comes when there is a great bull or bear market and trading by such commission houses creates a great volume of centralized speculation, with such houses having the advantage that they know just how their customers stand.

It is like looking at a man's hand in poker. A bull movement can not continue always, and the time comes when the buying must cease, and then the professionals will turn and sell in the market and start a decline. When this is brought about they sell short heavily and smash the market. They are almost playing a certainty, because they know that the public is long, and they know it is only a question of time when the longs can be "shaken out."

Senator GOODING. Is that a term that is used—"shaken out"?

Mr. SMITH. That is a trade term; yes.

Senator GOODING. "Shake them out."

Mr. SMITH. I have been shaken out myself. I have also helped to shake others out.

Senator GOODING. You have played the game for all it was worth, have you not, like the rest of them?

Mr. SMITH. Yes; but I never was a big trader.

Senator GOODING. Well, I mean as far as you went?

Mr. SMITH. Oh, yes. I did not do anything else for four years, and made more money than I have since.

Senator GOODING. You know all of the tricks of the game and you traded as well as the rest of them. You have to do that to stay in the game; is not that the idea?

Mr. SMITH. That is the idea.

The CHAIRMAN. Is that all, Mr. Smith?

Mr. SMITH. I do not think of anything else, Senator, unless there are some questions that you want to ask me.

The CHAIRMAN. Well, we will adjourn here and meet on Monday morning at 10.30 o'clock.

Mr. SMITH. Do you want me here again?

Senator GOODING. Suppose we have Mr. Smith come back if he can. I think we ought to have him here.

The CHAIRMAN. Very well.

(Whereupon, the committee adjourned until Monday, May 30, 1921, at 10.30 o'clock a. m.)

FUTURE TRADING IN GRAIN.

MONDAY, MAY 30, 1921.

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE AND FORESTRY,
Washington, D. C.

The committee was called to order by the chairman (Senator George W. Norris) at 10.30 o'clock a. m.

Present: Senators Kenyon, Capper, Gooding, and Ladd.

The CHAIRMAN. Is there anybody present here this morning who wants to testify?

(No response.)

The CHAIRMAN. As there seems to be no one here who wants to be heard this morning, the committee will adjourn until to-morrow morning at 10.30 o'clock.

(Whereupon, the committee adjourned until to-morrow, Tuesday, May 31, 1921, at 10.30 o'clock a. m.)

FUTURE TRADING IN GRAIN.

TUESDAY, MAY 31, 1921.

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE AND FORESTRY,
Washington, D. C.

The committee was called to order by the chairman (Senator George W. Norris) at 10.30 o'clock a. m.

Present: Senators Kenyon, Capper, Keyes, Ladd, Norbeck, Smith, and Kendrick.

The CHAIRMAN. The committee will come to order.

Mr. Barnes is here this morning, gentlemen. The committee will hear you now, Mr. Barnes.

STATEMENT OF JULIUS H. BARNES, GRAIN EXPORTER, NEW YORK CITY, FORMERLY PRESIDENT OF THE UNITED STATES GRAIN CORPORATION AND UNITED STATES WHEAT DIRECTOR.

The CHAIRMAN. Mr. Barnes, will you give your name, occupation, and residence to the stenographer?

Mr. BARNES. Julius H. Barnes, of New York, grain exporter.

The CHAIRMAN. You might let the record show your connections.

Mr. BARNES. Formerly president of the United States Grain Corporation and United States Wheat Director.

The CHAIRMAN. Now, Mr. Barnes, you are acquainted with the bill that we have under consideration?

Mr. BARNES. Yes, sir; I have given some study to the bill, Senator.

The CHAIRMAN. The committee would like to have you discuss it in your own way.

Mr. BARNES. If you will be patient with me, and if I am permitted to do so, I would like to develop the reasons why I have reached certain conclusions.

The CHAIRMAN. Without being interrupted?

Mr. BARNES. If I may.

The CHAIRMAN. All right, Mr. Barnes.

Mr. BARNES. I would like to say that I hope for not only your attention, but your sympathy, in what I have to say, because I realize that if I am to have your sympathetic consideration, I must demonstrate that I am not only sincere in what I have to say, but that I have taken some pains and have given some study to the matter in reaching the conclusions that I express to you.

In this time of distress and loss throughout the entire business community you, who write legislation aimed to be effective remedies, and we, who seek to influence that legislation, must be moved solely by a great desire to improve the whole distressing situation. This is

no time to ask legislation in furtherance of selfish ends, nor to urge abstention from such legislation if in it lies effective remedy. Particularly this obligation rests upon all of us in respect to the agricultural position. There the price collapse has fallen with peculiar force, and remedies are urgently needed.

It is assumed that because there is a daily and hourly price recorded on the grain exchanges and because America's 12-month supply of wheat for export and home consumption is harvested in three months, and largely marketed in six, that manipulative traders depress the price at harvest time and advance it later with resultant profit. The claim that this has been done is often made by those unfriendly to the exchanges.

These exchanges are a distinctively American marketing device. They do not exist in Australia, nor in India, nor in Russia. In Argentina there is a weak imitation which functions only imperfectly, because not bedded in the genius of their people. The course of prices in India and in Russia is exactly that which is assumed to be the course of prices in America, viz, severe depression at harvest time and advancing prices later. If this were the course of prices in America, the history of price movement would show a record of that tendency. We have in the average farm price data of the Department of Agriculture a fairly accurate barometer of the course of wheat prices in this country for some years past.

In order, therefore, to judge whether, with exchange trading, this perfectly human assumption of price course is correct, I have prepared a table of the course of farm prices for the past 10 years.

I have a few tables here, Mr. Chairman, that I want to present, because they are the basis of some study.

This chart, which I have called "Draft D," is rather formidable looking, but I think will be the quickest way of presenting it.

The blue line is the actual farm price, month by month, through the season. The red line is the line of net farm returns, deducting the theoretical 2 cents per month as the expense of accumulated storage, insurance, and interest.

That is, the red line is the net result from the average farm price.

It is clear that in 6 years of the last 10 the net price at the end of the crop year is lower than at the beginning. Of the four years that showed an advance during the crop year, one of them is the crop year of 1914 when the general war broke out and the other the crop of 1916–17, when we ourselves entered the war. With all the influence of progressive inflation which war occasioned, there was not an even chance for the farmer or investor who attempted to operate on the now popular assumption that prices at harvest time are depressed, with advances later. The figures of each month show the millions of bushels marketed during that month by the farm. An analysis in detail from this table of farm marketings would show that if there were a theoretical merchant who could follow a uniform policy for 10 years of buying the surplus of farm marketings in the first half of the crop year and marketing it in the latter half, even with the help of the extraordinary war inflation, such merchant would have had a total loss of some $200,000,000, besides his whole 10 years of effort.

The public has yet to learn that this distinctly American device has saved the American producer from the losses which would follow harvest pressure in a country of surplus production.

Because these markets are the recorders of grain values made by the play of supply and demand influences, because of the peculiarly delicately balanced position of the supply and demand of grain throughout the world, reflecting in daily and hourly quotations the progress of world crops, or the menace to them of weather deterioration, these markets lend themselves most readily to speculation, and therefore, unfortunately, provide a basis for condemnation by the reckless and thoughtless of their entire function, as pure speculation and gambling. This attracts against the exchanges a constant stream of criticism and condemnation, first from the producer side and then from the consumer, as fluctuating prices may dissatisfy one class or the other.

In this period of world-wide collapse of all values the daily and hourly values of quotations which marked a course of prices necessarily disappointing to the waiting producer have been attacked with renewed and peculiar vigor. The defects and abuses existing, as in all human enterprise, have been magnified far out of their true proportion, and the great service of these markets, functioning steadily through a period of price collapse, with an actually realizable market on every day and at every point, has been overlooked in the flaming resentment of the producer class, who have read in the recorded price decline the influence of sinister manipulation.

My own contact with the millers and handlers of wheat in this last crop year produced in me the conviction that not the wheat farmer but the wheat handler suffered the most in the decline of wheat values. The law of averages is cruel to the exception, and there are undoubtedly individual farmers who, holding their wheat back on the advice of men who did not hesitate to assume such solemn responsibility, have suffered the full effect of the fall on all or the bulk of their crop; but there are also individual farmers who, marketing from the thrasher their entire wheat crop, have secured an exceedingly favorable price return. I have analyzed from the monthly farm price of the Department of Agriculture and the monthly per cents of marketings demonstrated by the three years' exact reports of the Grain Corporation the relative position on this last crop of farmer and of buyer.

I want to show you that analysis in the form of this Table A.

This Table A is an analysis, month by month, of marketings, of the current deduction for home consumption, and of exports, and of the balance carried by dealers and millers, undoubtedly partly hedged at least through the grain exchanges. This shows that to the 1st of May the farmer apparently marketed 619,000,000 bushels, for which he received $1,192,000,000. If the full wheat guaranty had been in effect and the crop sold thereat, he would have received only $61,000,000 more than this amount.

On the other hand, the merchants who took this farm movement, month by month, would have had, at the price level of May 1, an apparent loss of $205,000,000.

This showing I believe to be substantially correct, and it illustrates the solemn responsibility resting on anyone who presumes to advise the marketing policy of the individual grower.

In connection with this question of responsibility for price advice and price delegation may be discussed the recent formation of a national cooperative association of grain growers. Every reasonable man will welcome such a movement. The grain trades should give these associations every aid that will ascertain whether they are an improvement in straightening, simplifying, or cheapening the line of movement of farm crops. If the cooperative association can perform for society a marketing function at less expense than the established trades, then they should and will displace those trades. Personally I do not believe they can live alongside or justify themselves in competition with the private facilities that have been built up from the primary market on to the consumer, here and abroad. I would give them every chance to try.

There are men in the cooperative movement to-day who frankly aim at the blind pledging of such dominating portion of the wheat crop that a delegated executive committee may name, in their discretion, a monopoly price on bread for the table of every American consumer. Fortunately the practical difficulties of securing a consolidated pledged monopoly of a crop grown over such vast areas and by 2,000,000 producers will prevent such monopoly consolidations or will break it down with infinite distress and loss if once set up. Fortunately, also, those in control of the present cooperative movement have laid this objective aside. But it will rise again in an acute form.

The cooperative movement is destined to great disappointment in effecting economies between primary market and ultimate consumer. The undoubted field of local usefulness is not spectacular enough to as yet enlist their earnest efforts. Local standardization of crop varieties and qualities tending to economy in storage and production; local cooperative ownership and use of expensive farm appliances, such as tractors, harvesters, thrashers; local organization for promptly providing members with accurate information for the guidance of their own price decisions; local provision of seasonal labor with saving of valuable producer time and effort; local farm economy in facilitating grain hauling at times of least interference with other farm work, by providing adequate storage facilities either owned or under contract for their members; local savings to members in large-scale purchases of supplies and articles of general use—all these justify the local cooperative effort. But for the present these aims are dwarfed in what is conceived to be the larger economy of so-called elimination of middleman. But, inspired by the recital of the success of the California fruit associations, they are neglecting as yet the development of their real field of cooperative economy and aim at one in which either their investigations were superficial or their conclusions erroneous. For instance, the California Citrus Fruit Exchange justifies itself, and justly so, that they have reduced the marketing expense of reaching the wholesale buyer from a former 15 per cent to about 2 per cent to-day. Yet already, in the grain trades, and under private initiative, any producer can reach the terminal market, miller, or buyer for a commission of 1 per cent or less. From that terminal market there is keen competition of export houses that will carry the grain from interior terminals and deliver it abroad for 1 per cent or less. Or there are millers that will put that wheat through a manufacturing process, distribute it through a

highly perfected sales organization, and be content with a profit margin over cost of 1 to 2 per cent.

Producers generally do not realize that on the security and ready credit of the American exchange marketing system has been built such keen and active competition that their marketing expense to-day has little margin for further elimination.

But I would give them every opportunity to find this out by freedom of competition.

The cooperative fruit associations after years of effort have just developed a standardization of product and a guaranty of quality. The grain trade has already done that for many years. The fruit associations assess their members for broadcast advertising of their brands and qualities, to stimulate a market. The grain trade, flour trade, and baking trade have done that on an immensely greater scale for many years, to the distinct producer advantage.

The truth is that the cooperative association as applied to the grain country will soon come to the parting of ways, and must decide a matter of vital principle. Will they preserve the individual price and sales decision, strengthening the position of the individual grower, so that he may attain relative independence in selecting that time; or will they set up a pooling of crops, with a sales policy delegated to a central body depending for effectiveness upon a substantial monopoly of the product? If the latter ideal is finally accepted, then you gentlemen in Congress will have to face a question of public policy that will sit like Banquo's ghost at every table. I believe the former method is the American way. I believe, in Congress and out, every effort should be made to preserve and develop the economic and financial independence of the individual grower, so that, with American self-reliance, he will make his own individual decisions. I can see nothing but a menace to fair play in a proposal for concerted price action of groups of producers, as of any other groups, controlling articles of common necessity.

As to these tables, B and C, the top table, gentlemen, is based upon the bottom one, and comprises all of the essential facts of it.

The Tables B and C are a record of the course of prices in certain commodity groups, based on the average prices of the year 1913 as a base. The chart lines on Table C show the relation in per cent of increase from the base price of 1913, at various dates, up to the present. These groups are those commodities which fall naturally into the same class. For instance:

No. 1. Course of Wheat Prices.

No. 2. Combined Price of Rye, Corn, Barley, and Oats.

No. 3. Wearing Apparel Commodities—Cotton, Wool, Silk, Leather.

No. 4. Dairy Products, Butter, Eggs, Chickens.

No. 5. Table Luxuries, Coffee, Sugar, Tobacco.

No. 6. Standard Vegetable Foods, Potatoes, Beans, Rice.

No. 7. Livestock, Hogs, Cattle, Sheep.

No. 8. General Industrial Commodities—Iron, Steel, Copper, Lead, Petroleum, Coal, Rubber, Lumber, Cement.

Broadly speaking, the peak of price advance was reached in most of these groups, about July 1 last, and deflation started actively in the last half of 1920.

For the purpose of illuminating the course of prices in the last 10 months, the chart omits the details of fluctuations during the

preceding six years, giving only the general course of prices in those years.

On September 1 last wheat was the standard commodity that showed the highest relation to the prewar price. On October 1 last wheat was still 270 per cent of the prewar price, while the table-luxury group including the influence of the abnormal sugar price, was next at 238 per cent, and six of the standard groups had fallen to near and below the 206 per cent level. On November 1 last wheat was still the highest per cent of advance of any of these standard commodity groups being even then 237 per cent of the prewar level. Seven of the eight groups were distinctly plunging downward. Only the group of dairy products held up under the seasonal influence of approaching winter prices.

From the standpoint of real service to the wheat producer I know of no more glaring misuse of a great opportunity than was illustrated last October, when men in public life, headed by the governor of a Western State, assailed the grain exchanges as being then the instruments of manipulative depression. Ten minutes' study at that time of the progressive price deflation taking place in practically all the standard commodities of modern use would have indicated the real service to be rendered the producer by apprising him of these distinct economic tendencies. A few words of caution, based on sound analysis—that irresistible currents of deflation were at work; that wheat had at that time felt this deflation less than any other standard commodity—would have been a real service, indeed. The producer, furnishing such accurate information, would have made his own market decision, avoiding the large losses afterwards incurred.

Instead, there was held up to him the phantom hope that the depression was manipulative and temporary and could be checked. Within six weeks after these public attacks on the grain exchanges as having then produced a depressed price of wheat the price fell almost 60 cents more. It is fallacious to argue that either the preceding price recession or its later accelerated decline were solely or mainly the results of manipulation. The truth is that trading on exchanges, thus brought with unfavorable interpretation into the public attention and menaced by impending legislation, lost a large part of that clientele which had carried the marketed farmer surplus. At that time 400,000,000 bushels of the present crop had been marketed from the farm. Besides supplying all current exports and home consumption, there still rested in the hands of merchants, elevators, and mills 200,000,000 bushels of that marketed wheat, largely hedged by sales on exchanges to speculative buyers. That is, at that time, last October, we required in this country an absorptive buying sentiment of 200,000,000 bushels to carry the accumulated farm marketings alone.

I repeat, a country which matures in three harvest months the 12 months' supply of flour for 100,000,000 people plus almost the same amount more for overseas distribution needs all the absorbing buying power which buyers of every kind can provide, and the entry of those buyers on such an investment must be fecilitated. It is apparent that the circle of investment and speculative buyers would be at once narrowed could such buyers effect only their purchases by the complicated machinery of financing actual wheat in country or

terminal elevators, with the necessary complicated details with respect to every individual buyer and separate lot. Moreover, the realization of profits of liquidation of losses in the final outcome of such investments must be completed by some readier method than the slow, cumbersome one of finding actual buyers for particular grades, quantities, and locations of wheat.

These would be deterrents that would distinctly operate to reduce the number of those who now help to carry the crop-marketing pressure. Exchange trading has developed a market place where actual grain handlers who arrange storage, insurance, and the many details of financing actual movement can meet with these investment and speculative buyers who, by their purchases, help to maintain the general price level against undue depression during the crop movement. We must be very sure that the defects or abuses incident to this marketing system produce injustices outweighing all advantages gained by liquidity and simplicity before these simplified trade processes are made more cumbersome. No reasonable man can claim for these exchanges that their methods are yet perfect. Every reasonable man regrets that there do occur at times on these exchanges the spectacular and the unfair.

But I think it may be fairly claimed that the exchanges have made steady and consistent progress toward reducing and eliminating those abuses. I view with deep and real misgiving the writing into regulatory law such supervision as will by potential interference in the normal processes of trade frighten the investment and speculative public from those markets. Manifestly, it is not possible for the exact quantity, of the exact grade, and in the exact location offered for sale by actual owners at any given moment to exactly meet the buyer, for actual consumption at home or abroad, with his exact requirements of particular grades and quantities and locations. These particular buyers and particular sellers may not match in their trading desires during the same day nor during the same week.

If, then, there is to be the instant ability to place or remove hedges without material fluctuation, there must, in the interest of sheer liquidity, be attracted a class of trading that will on very minor fluctuations carry the hedging needs between the operations of the actual hedgers. In this service they assume the character of insurers of narrow trade margins for the large hourly needs of millers, dealers, and exporters. Their gains, such as they are, may well be looked upon as the moderate toll of an insurance premium for providing the regular commodity trade with security against losses by large price fluctuations before their purchases and sales could be matched. The readiness with which this insurance service may be secured with the attraction of a minor relative fluctuation is part of the hedging service of these exchanges. It is most probable that the divergence of their individual opinions fairly check each other, and the influence of their trading to either advance or lower the price basis, even for a short period, is probably insignificant. They furnish the regular merchant, miller, and exporter with the facilities which enable him to close contracts for domestic or for foreign sale quickly and with a minimum of fluctuation during the process of purchase or sale, and that facility maintains the narrow trade margin in all these processes.

The charts which I have referred to show that last fall's enormous marketing had been taken from the farm with very little price recession, in the face of distinctly downward tendencies in general price levels. There must have been some peculiar factor in the marketing processes of wheat which had so greatly cushioned and softened the falling tendencies of all prices. There must have been, in some manner, a unique buying power which, in respect to wheat, was powerful enough to offset even the influence of parallel collapse of other values. The chart shows not only the steadying effect up to October of this factor of absorptive buying but shows immediately thereafter the shrinkage of that sustaining influence. It is not a mere coincidence that unfair and thoughtless attacks on grain-exchange facilities in October and November, actuated though they were to prevent a price decline, were accompanied by violent declines in wheat prices. Under the menace of restrictive and prohibitory legislation former holders liquidated their commitments and new buyers did not appear. This shrinkage of buying force placed a greater weight of accumulated marketings against the price, and the price fall inevitably followed.

After three months of steadiness there was, in March and April a further steady fall in price, accompanying, again not by mere coincidence, the introduction and progress of legislation directed against the exchanges. Attacks made honestly but with deplorably superficial knowledge, in an effort to aid the farmer position, have produced the exact opposite result and depreciated his market violently. We need not only sincerity of purpose to aid the producer, but we need careful analysis and intelligent action if that aid is to be effective.

On the general position of the wheat producer in America I am not by any means hopeless. This coming crop of wheat will be raised at a lower cost of production on the farm; it will move into a market swept bare of carryover, whereas a year ago we carried 150,000,000 bushels into the new harvest year. We have just completed the demonstration that America has been able to market abroad its entire crop surplus on a basis to net the farm an average of almost the equivalent of the guaranteed price. This has been done in the face of real obstacles. Our domestic consumption has fallen 50 to 100 million bushels below its reasonable expectation. Our markets had received and digested 60 to 80 million bushels of imported wheat. We have been faced with foreign buying governed not by their requirements or their desires, but by ability to pay cash—and they have paid cash. One by one our European buyers are dropping their concentrated government purchasing and allowing the individual judgment of their merchant importers to govern their purchases in the normal trade manner. This means the elimination of something of a disadvantage under which our producer has suffered in his national bargaining in the past year. The stability of the consuming countries who constitute our chief customers is clearly improving, and with it their ability to buy. With the surrender of Government purchasing and Government control will come the exercising of the individual preference of their people for a better grade and larger consumption of flour and a larger percentage of imported wheat. The demonstration that Europe, even in its present prostrate position, could absorb from us in a single year exports of 360,000,000 bushels of wheat is encouraging for the future.

There are some large things to be done to place our interior production at less relative disadvantage in the world competition. The necessarily higher scale for rail carriage, even though subject to some relative readjustment, bears heavily on a producing area 1,500 miles from a seaport. The Argentine farm, with its short 200-mile rail haul, has a transportation advantage which American resourcefulness and large-scale economy finds most difficult to overcome. There will come before Congress before long, I hope, the project of so improving the St. Lawrence waterway that our interior lake ports will also be ocean ports, and restore the balance of transportation because in the protection of our own farms. This country, producing the largest exportable surplus of wheat of any country in the world, must be put in its most favorable relation, both in respect to transportation and trade-handling charges, in reaching the foreign consuming markets.

Far more than that, it must be free from the necessity of seasonal pressure into those foreign consuming markets on the export surplus produced in this country. The price attainable for that export surplus govern also the price attainable for our home consumption. The American device to cushion that pressure into the final foreign consumer price has been the system of great grain exchanges absorbing crop pressure through utilizing the speculative and investment genius of our own people. The record of price currents and tendencies show that it has performed that function marvelously well. The development and prosperity of our vast inland grain-producing areas, selling their product in competition with the cheap labor countries of India, the Argentine, and Australia, show that this marketing system has protected our producer against exposure to a price dictated by foreign markets under the pressure of direct offerings. The time may come when there is a better marketing device, a better marketing structure, a better marketing policy in the protection of our producer, but that is not in sight to-day. With all the earnestness at my command, I urge you to carefully weigh any regulatory steps which would reduce or destroy the protection to our producer industry by these vast absorptive markets and their ready trading facilities.

Referring to H. R. 5676, known as the Tincher bill, I believe the primary justification for any legislative act to be almost solely that such legislation is necessary to preserve fair play and equal opportunity.

If the situation is such that there is not a free and fair play of natural economic forces, then the strong hand of regulation should restore the balance, but not otherwise. Regulation, of necessity, can not be adaptable nor flexible, and its injection into the processes of trade is to be greatly regretted, except for this primary preservation of fair play. I believe the records of progress in steady elimination from the grain markets of imperfections and abuses is such as to entitle the exchanges to be allowed in all confidence to work out the further perfection of a system which is the most highly efficient translator of farm product to consumer table at low trade tolls that society has yet evolved. No one can argue in good faith that the exchange system of marketing is perfect. But if there is a steady progress in remedies, based on more enlightened business conscience

and applied with the effectiveness of demonstrated experience, it is neither fair nor wise to risk the injury of hasty legislative interference into delicate processes of trade.

I believe it to be shallow thinking, indeed, that condemns the system of exchange trading because of the noisy spectacular surface of these great marketing currents. Legislation aimed at their elimination assumes a solemn responsibility. The greatest care and study should be exercised that the vast underlying, smoothly functioning machinery of a great national marketing service may not be wrecked or injured.

I believe the day will come when the agricultural communities now clamoring for restrictions and regulations on these exchanges will recognize in them great servants of marketing. Some day producers themselves will join with the better members of the trades in perfecting these processes, not in destroying them.

Some progress has been made in recent years in the general understanding of the functions of those exchanges. There are, fortunately, legislators who have looked beneath the turbulent surface play of minor price fluctuations which give a misleading color of aimless speculative contest. There are legislators whose study of this intricate process has enabled them to see the greater underlying service. They recognize that the security to borrowed capital and to business resources afforded by the hedging facilities of these exchanges have created active and ready competition. They recognize also that the instant trading insurance functioning of these surface traders is a factor in maintaining the narrowest trade toll between farm and consumer possible by any method yet devised.

Popular clamor, mistakenly interpreting as the manipulative prices of sinister operators, the price currents recorded on these exchanges by the play of great economic forces, should be resisted by men of intelligent conviction. This bill itself shows in its altered form from the earlier measures proposed the influence of an amended judgment that must inevitably follow the study by fair-minded men of these trade processes.

Now, Senator, we might discuss the details of the bill. That is the general story.

The CHAIRMAN. Perhaps before you take up the details of the bill, you will permit the members of the committee to interrupt you now?

Mr. BARNES. All right, sir.

The CHAIRMAN. There are one or two things, Mr. Barnes, that occurred to me at the beginning of your testimony. I want to ask you in reference to those charts, in the first place, so that we may approach the subject from as nearly as unbiased standpoint as possible, and I want you to consider for the sake of your testimony, whether you believe it or not, that in asking these questions I am moved just as much to protect the consumer as I am the producer, and that I would like to have altogether eliminated any unnecessary charge in the travel of the commodity from the producer to the consumer. I realize there is such a charge, very properly made, and there must be a middle man, but I want to get rid of all of those charges that I can.

Mr. BARNES. That is right, Senator; that is right.

The CHAIRMAN. And not injure the economic aspect of the question.

Mr. BARNES. Yes.

The CHAIRMAN. Now, in the first place, take wheat. Is it not natural and is it not proper that wheat should gradually advance in harvest time, because the great part of it has to be stored and kept in storage, and the person who does that is entitled to recompense for the money that he invests in it; so the natural thing would be that it would advance, would it not?

Mr. BARNES. It should, to preserve any inducement for undertaking the storage of it and the financing of it.

The CHAIRMAN. Yes; and we should, should we not, have all proper methods to induce people to store grain?

Mr. BARNES. Yes.

The CHAIRMAN. And hold it?

Mr. BARNES. Yes.

The CHAIRMAN. And, if necessary, there should be provided proper pay for that. So it seems to me that when we approach the end of the consumption of a crop that we have produced it ought to be higher, unless the prospects, when you get real close to the next crop, are for a big crop, which would have an effect on the market.

Mr. BARNES. It will, naturally; it will be affected by the coming crop.

The CHAIRMAN. The first chart that you have given us here shows where the market has not been influenced by unnatural means, such as occurred during the war. The average price was going up gradually, as I understand it.

Mr. BARNES. No; the contrary, Senator; for 6 years out of 10 it gradually fell moderately.

Senator NORBECK. Mr. Chairman, if you will permit the interruption, I would like to ask a question there.

The CHAIRMAN. All right, Senator.

Senator NORBECK. Is the fall in the price larger than would be the cost of storage, the interest on the money, and the amount of shrinkage for that period?

Mr. BARNES. Broadly speaking, on an average, no; it is not.

Senator NORBECK. Then that is another way of saying that there is no change in the wheat price for fall and spring on an average.

Mr. BARNES. Of course the average is a difficult thing to arrive at.

Senator NORBECK. Well, for the six-year period that you are speaking of, I mean.

Mr. BARNES. There is a remarkably stable tendency in the wheat price, except for those extraordinary years.

The CHAIRMAN. This chart shows for itself.

Now, Mr. Barnes, admitting that the average, under existing conditions with the boards of trade and the exchanges operating just as they do, would come out in the year just as it should, the objection is amde—and, to my mind, it is a very important consideration—that while the average may be the same year by year or for any term of years, the speculation that goes on in futures, etc., makes violent fluctuations in the market up and down that are not explained by natural causes. Has not that objection occurred and does it not occur very often?

Mr. BARNES. Yes; it does occur, and oftentimes those fluctuations can only be accounted for by local market conditions; but if they are due to that they are very quickly checked and retraced. You must

remember that wheat is different from almost any other commodity in America. There is a harvest every month in that commodity. Every month there is some crop somewhere exposed to deterioration, and when you see such fluctuations in consumptive requirements as is illustrated in America this year, when for no apparent reason the human consumption of wheat has dropped nearly 80,000,000 bushels, there is a constant demonstration of the correctness of those advance estimates.

The CHAIRMAN. I saw a telegram the other day from a grain man giving the price of wheat from a town in Kansas. The wheat was controlled by the Chicago price, as I understand it. It was away up one day and away down the next day or within at least two or three days there was a change of 25 or 30 cents a bushel. It regained the price, so that it was about the same, but there was that fluctuation, and that shows, it seems to me, that there was some unnatural cause operating. Now, the producer of the wheat, when it goes onto the market, when the price is down loses, of course, and some other producer of wheat may gain when it goes up, so that on the average the losses and gains may check each other, but to my mind that is a very unsatisfactory condition.

Mr. BARNES. You will always have those fluctuations in any commodity that there are trades in daily and hourly. My justification for that kind of trading is the instant readiness to take on or to take off a hedge in the process of milling and exporting, which enables a man to operate on 1 per cent instead of 10 or 15 per cent, and that 1 per cent saving reflects back on the farm price all the time.

Now, take Kansas, for instance. Last Friday it was threatened with deterioration of the crop by dry weather. I do not know whether it rained over Sunday and Decoration Day or not, although it usually rains somewhere on Decoration Day. If it did the prospect is materially altered. It may mean a difference of forty or fifty million bushels in the State of Kansas.

The CHAIRMAN. I admit that the weather ought to have a great deal to do with it where the crop is in its formative period. That is a natural cause, but the particular instance that I have reference to—and I only use it as an illustration, because I have not followed the market—had no reference to the weather, as I understand it. The grain dealer in Kansas paid the price according to his quotations from Chicago, and within a week's time, as I remember the telegram, the price had gone down about 30 cents a bushel and had gone up about 30 cents a bushel. Now, according to your chart that would average up all right, and as far as the aggregate was concerned with the producers, it would, perhaps, have produced the same result, but it is not fair. I not only want to prevent the producer from being affected by outside causes which make too high a price, because it is not fair to the consumer, but to protect him also from subjecting his product to sale on the market, where, by some unnatural cause, the market has been forced down.

Mr. BARNES. Yes; such an instance as you have mentioned, Senator, would be very exceptional.

The CHAIRMAN. Now, Mr. Barnes, is it not true that this large amount of future selling and speculation on the various boards of trade has a tendency to bring about just that kind of result, and ought we not to eliminate it, if we can?

Mr. BARNES. No, Senator; I think the exact opposite is correct. It is a constant checking of the interplay of conflicting individual opinions recorded in the price that makes for a stable market. Anticipating these features and the continued price influence on crop development, there is a more intelligent appreciation of consumption, the expansion or contraction of it. All of these things are constantly entering into the calculations of hundreds of thousands of individual merchants, and in such periods when popular psychology runs away either one way or the other, they fairly check each other.

The CHAIRMAN. That kind of a calculation could not account for a fluctuation in the market of 30 cents per bushel in a day's time, would it?

Mr. BARNES. Not in a day's time. That rarely happens, Senator.

Senator CAPPER. Mr. Barnes, this bill shows here that it was passed by the House on May 13. The papers on this day show that there was a decline of 12 cents in the Chicago market that day. The papers carried the story and it was due to the passage of this bill. Now, how do you account for a fluctuation of that sort?

Mr. BARNES. It illustrates exactly what I mean by the effect on the general average, that people who have bought in Chicago, on reading of the passage of that bill, hurried to sell out. We need all the time 200,000 bushels overbuyers in this country to carry the farm surplus, and we must not frighten them off.

Senator CAPPER. But there was just as much business going on in the market that day as at any other time, and certainly it caused a loss.

Mr. BARNES. Yes; but the loss must be interpreted daily and hourly through the opinions of merchants, and 24 hours after the passage of this bill the merchants had the idea that it would close the exchanges, and they hurried to close their contracts. That was a very unintelligent proceeding, but it is a human proceeding.

The CHAIRMAN. I think so; but if we have a market system—and for the purposes of the question we ought to admit it, and only for those purposes—if we have a market system that has inherent wrongs, and we change it, even though we have not succeeded in securing a better one, would there have happened the very thing that you have mentioned? If we have grown up here under a system which has something wrong about it, this change might bring about results, temporarily, at least, that would be detrimental to the producer, because we would have to perform our operations on a new basis afterwards.

Mr. BARNES. Well, the test of whether that marketing system which has grown up was wrong would be whether it was discharging its function in the fair interest of both the producer and the consumer.

The CHAIRMAN. Oh, yes; I concede there are two sides to that question, but for the purposes of my question I assume it is wrong, and I think you will agree there are a good many things going on on the boards of trade that ought to be eliminated, if they can be.

Mr. BARNES. Yes, Senator. My whole emphasis is that the exchanges have clearly made some progress in eliminating those things. Take these spectacular corners of 20 years ago. The business conscience which thought they were smart and cute has entirely altered.

The CHAIRMAN. Your theory is that it will improve itself, if we let it alone?

Mr. BARNES. Yes.

The CHAIRMAN. And it is the theory of the other fellow that we should hasten that improvement if we legislate in regard to it.

Mr BARNES. Senator, I have not any quarrel with any gentleman who thinks I am wrong, that the progress is not fast enough, if he will either take the trouble to find out what the market is doing.

Senator CAPPER. Mr. Barnes, how long has it been since we have had a corner?

Mr. BARNES. Well, the corner rule in the grain market of Chicago has been in effect for three or four years. No longer does a man have to fear that because he is caught without hedges, the buyer can dictate his price out of the air. There is a rule by which it has to be a fair price.

Senator CAPPER. Would you say that the exchanges had been run in a fairly satisfactory way since that time?

Mr. BARNES. In a much better way, but they are still improving.

Senator KENDRICK. Mr. Barnes, do you know of any vicious influences or practices in the present system of marketing grain and selling futures that, in your judgment, can not be eliminated by the exchanges, and which could be improved by some form of legislation?

Mr. BARNES. Senator, I wish I could say without reservation that I have confidence that the exchanges will eliminate those things, but a meeting point has been reached, and that meeting point is constantly advancing. I do not know whether the exchanges have reached the conception which I think they should have reached, but I think they have.

Senator KENDRICK. Is it not possible, under some conditions, that corrective legislation might hasten those things or, even in some cases, it might bring reforms that the exchanges themselves could not possibly reach by their own authority?

Mr. BARNES. Yes; that is true. I must recognize that.

The CHAIRMAN. If there are no further questions from the committee, Mr. Barnes will proceed with his discussion of the bill.

Senator REED. Mr. Chairman, will you allow me to ask a question about a matter that is relative to this subject? It is a question that I am investigating, not only with reference to wheat, but other matters.

The CHAIRMAN. All right, Senator Reed.

Senator REED. Mr. Barnes, what effect would it have, in your opinion, if, daily, there was published with the reports of wheat sold and bought a statement as to the amount of it which was actual wheat for delivery and a statement as to the amount which was—I suppose the right term is, short sales or hedges, in other words, fictitious transactions? I am not trying to use an offensive term, but I am trying to get this thought to you: There are certain men who go into the market and actually buy the wheat and expect to have the wheat delivered. There are a large number of other men who buy wheat which they do not expect to have delivered. A part of it is what we call hedging, and some of it, I suppose, is purely betting on the market. Now, what I am trying to ask you, in this rather long and complicated question, is whether it is feasible to separate the real transactions from the fictitious?

Senator KENDRICK. And give publicity to them?

Senator REED. And give publicity to the facts just as they are?

Mr. BARNES. Now, Senator, let me see if I do not get your question this way: I look on these transactions of future trading on the exchanges as an insurance level. It is insurance against loss by change of price base on which ready credit is obtainable by the grain trade, so that a man with small resources can readily enter into active competition, and it is a process that creates this great safeguard in trade margins.

Senator REED. That is what you call hedging, is it not?

Mr. BARNES. Yes. Now, if that is true, the volume of those transactions on these particular terminal markets that lend themselves most readily to future trading is compared with the cash grain moved through that market has no relation whatever. The cash grain would move to its ultimate point of destination through the most economical channel, which might lie entirely outside of those trading markets. For instance, the entire southwestern crop for export moves through Galveston and New Orleans, where they do not trade; and they move on the security of hedging transactions in the Chicago market. In doing that it passes through the hands of several handlers, the country buyer, the forwarder to the seaboard and the exporter from there, every one of whom, to obtain this hedging insurance, uses the future exchange. So that in the form of profit there would be 6 or 8 or 10 times the volume of trading in Chicago, without a single bushel of it actually going into the Chicago market.

More than that, with the narrow trade tolls laid on raw material in the form of wheat onto the miller, the market is only possible by getting this hedging security on and off without a minute's loss, and with no price effect, and since those trades can not match identically there is a real insurance service rendered.

Senator REED. I think I understand that line of argument, and I am not undertaking to combat it, but what I am trying to get at is this: Let us assume that all you say is correct, and that your theory of it is justified. Nevertheless, as a practical thing, can it be done? Or let me change that question, and ask: Nevertheless, is the situation such that at the close of the day's business it could be announced how much actual wheat was bought and sold and how much of the other transactions there was outside of the actual sale of wheat?

Mr. BARNES. That information would be totally misleading and totally useless.

Senator REED. No; I am just asking if it can be done for the present. That can be done, can it not?

Mr. BARNES. It can be done; yes.

Senator REED. Now, you say it is utterly——

The CHAIRMAN. Now, just to carry that thought a little further, I want to ask this question, if you will permit me, Senator: You have only gone, in answer to Senator Reed's question, far enough to describe, as I understand it, the hedging that you think is necessary in the actual trading in wheat. It is conceded that there are some other contracts that are not hedging. Is there any way to let the public know daily the extent of those contracts?

Senator REED. I was coming to that. I will just adopt that question, Mr. Chairman.

The CHAIRMAN. I thought you were going onto another subject, Senator. I beg your pardon.

Senator REED. That is all right.

Mr. BARNES. Again, what you want to extract from that is whether this trading——

The CHAIRMAN. My question is whether you can separate it, giving the public that knowledge, regardless of whether it is right or wrong, or regardless of whether it is a good thing or a bad thing.

Mr. BARNES. That would be a difficult process, because the trader on the Chicago exchange calling an order on commission does not know the position of the man from whom he receives the order. He may be legitimately hedging. He may be selling at Chicago against a purchase in Minneapolis or in the Southwest, or in Baltimore or Philadelphia, where they have no exchanges.

The CHAIRMAN. Or he may be a pure speculator?

Mr. BARNES. Or he may be a pure speculator.

The CHAIRMAN. He has no way of telling that.

Mr. BARNES. Why don't you drive right at the speculator who uses these market facilities?

The CHAIRMAN. Would we not have to separate his contracts from the others and find out how much he did?

Mr. BARNES. Yes, Senator; and that would be a hopeless project if you tried to analyze all the trades.

The CHAIRMAN. Then, how can you drive at him?

Mr. BARNES. The man who is doing that can be located by the size of his orders and the resources that he has.

Senator REED. How? Now you come to the question.

Mr. BARNES. The exchange authorities themselves know very well by whom and when that is going on.

Senator REED. Then, the exchange authorities must be able to distinguish between that kind of a deal and other kinds of deals?

Mr. BARNES. Not the deal. They go at the individual who originates the deals, and by tracing his operations they can tell whether they are of a size and character such as to come within the definition of manipulation.

Senator REED. Is there any reason why, if I should come to you as a grain broker, as you are, and say, "I want to buy 10,000 bushels of wheat," you can not ascertain at that time whether I am actually buying wheat for actual delivery?

Mr. BARNES. Yes; that would be a perfectly hopeless process, Senator.

Senator REED. Why?

Mr. BARNES. We would have nothing but the statement of the client.

Senator REED. Well, what do I pay; what about my security and what about my payment?

Mr. BARNES. Well, he is buying for future delivery, is he not?

Senator REED. I am buying July wheat now. I want to buy 10,000 bushels of wheat due in July. Now, if I go out to an old farmer to buy that, I have to sign a contract to buy it, and he has to be satisfied that I have the money to take it up. How do you do that business on the boards of trade?

Mr. BARNES. That transaction would happen in a hundred ways on the board of trade, and the commission merchant who executes that

order would have nothing but the word of the customer as to whether it was or was not——

Senator REED. What security does he have from the customer that the customer will take it?

Mr. BARNES. Nothing but his general character and his resources in the trade.

Senator KENDRICK. Does he not have to put up a certain amount of money as a margin?

Mr. BARNES. Yes.

Senator KENDRICK. You would call that a margin?

Mr. BARNES. Yes; but the miscellaneous trader——

Senator KENDRICK. He advances so much money?

Mr. BARNES. I am talking now of the large actual handler, because that is the position Senator Reed is after. The large actual handler does not put up those funds. It is done on his character and resources and the reputation he has behind him.

Senator REED. Is there any way that a man selling wheat can tell whether the wheat is going to be taken off of his hands, or whether the margin is going to be forfeited? I am not asking you about what they are doing now, but is there not any plan which can be devised by which you could reduce that effort to actuality, and it is understood that it is an actual trade?

Mr. BARNES. Yes; you can do that, Senator, and you will have a 10 per cent margin between the farmer and the consumer instead of 1 per cent.

Senator REED. Why?

Mr. BARNES. Because that makes the process cumbersome, slow, and hazardous.

Senator REED. Well, I did not mean to interrupt, Mr. Chairman, further than to try to elicit, if I could, from Mr. Barnes, in answer to the question, whether it was practicable to separate the actual transactions from the fictitious transactions, and I understood him to say it was not.

Mr. BARNES. Except by creating a cumbersone slowing up of the whole process, Senator, which would reflect inevitably into other trade tolls.

Senator REED. Well, I have no right to interrupt any further. I wanted to get your view on that point.

The CHAIRMAN. All right, Mr. Barnes; go ahead with the bill now.

Mr. BARNES. Senator, not to be contentious at all, I want to make clear first that I have a very clear conviction that the primary justification for any legislative act is fair play and an equal opportunity. In these markets, if the situation is such that there is not free and fair play, then regulation should intervene. Now, the regulation proposed in this bill is not adaptable, unless you differ with me that there is not reasonable progress toward the elimination of those things that interfere with perfect fair play on these exchanges.

Senator REED. May I ask one other question, Mr. Chairman?

The CHAIRMAN. All right, Senator.

Senator REED. The witness stated that there had been no corners for the last three or four years, because the grain exchanges had made rules regulating the matter, so that a man, as I took it from his answer, could not exact any price that he might be able to force the market to at a particular moment. What are those rules?

Mr. BARNES. Broadly speaking, most of the exchanges have a provision for a committee to fix the price that a fair market relation for the property contracted for, plus such a penalty as will deter the deliberate selling into a position of default.

Senator REED. Well, what is that penalty?

Mr. BARNES. I do not think those rules have come into play, to be a guide of what would be the penalty, Senator, since they have been established.

Senator REED. But instead of a man being able to make a demand for any price that he can fix the grain at, there is a board that has the right to say that "The market price for that day ought to have been a certain amount, and that is all you are going to get?"

Mr. BARNES. That is it.

Senator REED. I am much obliged.

Senator KENDRICK. Mr. Barnes, is the failure to apply that regulation because there has been no necessity, due to the fact that there has been no necessity for it?

Mr. BARNES. That is the fact, Senator.

With some of the aims of this legislation, what I believe to be the best sentiment of the trades themselves, are heartily in accord. But I believe the same objectives can be attained through action of the exchanges, themselves, without risking the disturbance which follows the injection of Government regulation unnecessarily into business. I pledge my best efforts, and of many men in the trade similarly convinced, that there shall be created a public opinion in these exchanges that will accomplish some of these ends, with or without legislation. I believe I am justified in confidently expecting that these exchanges have been steadily approaching that state of exchange opinion which will initiate these changes within themselves.

If you have not the same confidence in the enlightened and advanced trade judgment, and if you reach the conclusion that regulation is necessary to accomplish certain ends, which I agree with you are desirable, then I ask you to seriously consider certain comments I shall make on the bill as framed.

These comments and suggestions are made with a sincere desire to preserve the constructive objectives and to lessen the danger of producer injury which I believe exists in certain other features of the bill.

Broadly speaking the act provides these things:

To tax privilege trading out of existence. With this end the general sentiment of the national trades will agree. The exchanges have already expressed themselves as against the practice of trading in privileges, and will, I am confident, without legislation, eliminate this immediately.

By taxation, to confine future trading to exchanges designated by the Secretary of Agriculture, and thus under control.

These markets are to be designated when they do these things:

Provide for keeping certain records. This should be as simple as possible.

Prevent misleading information. This is general now by the exchanges and may be strengthened by them.

Prevent manupulation of prices. Exchanges to-day aim to do this and are in actual experience testing out further steps which will make prevention more effective, without breaking down the

larger national service of exchanges. Business conscience to-day condemns the manipulator.

Admits cooperative associations to membership. In my judgment, the exchanges are ready to suspend their rules against rebating in respect to associations that are purely cooperative, handling products only of their own members. These rules against rebating have grown up with other protective exchange regulations, with the intent to preserve the character and resources of exchange members who, by receiving consignments of property, are in the position of trustees of large value. The record of the discharge of that trust by members of the grain exchanges in recent years justifies the careful supervision of exchange management over the character and resources of their members, and should not be forced.

In the bill, section 6 as drawn, is in my judgment sure to resul in a shrinkage of trade volume. It will drive from the markets an appreciable per cent of that absorptive buying which is vital to a country producing in three months the domestic food and export supply for 12. You must not disregard the convictions of experienced and sincere men that, under the menace of the closing of an exchange by the action of a single individual, trading will shrink and the maintenance of price under crop pressure become vastly more difficult. You must not contemplate penalizing the entire body of traders for the misconduct of a possible single individual. Trade will not live, and will not enter the markets freely if there exists the possibility that, by the closing of exchanges, there will be forced the arbitrary termination of contracts at a price level then existing, without the working out of the final economic forces contemplated in those trading commitments. This section certainly should be altered to reach, first the individual, by punishing him with the withdrawal of trading privileges, and if it is thought necessary to control the exchanges themselves, the exercise of that control should be hedged about with wider guaranties. My suggestion is that no one individual, no matter what his official status or his present character, should have the authority, in his single judgment, to so violently disrupt or terminate the vast transactions of a great marketing system. At least, there should be a board of several officials, and, I repeat, first the bill should contemplate reaching the individual, and only the exchange as a last resort. The exchanges should also have the right to apply for cancellation and termination of their licenses if they conclude they can not perform their functions under the prescribed regulation.

I want to emphasize the fundamental difference between regulation which affects only the trade facilities or manufacturing processes, such as the packing industry, and regulation which will frighten from the markets any portion of the large public support which the safety of our producers' price demands. I could wish, with great earnestness, that the undoubted desire in Congress to mitigate the present distress of the agricultural communities would, instead of hazarding the peril of creating depreciated buying, take other forms instead. Careful investigation and sympthetic action, both private and official, would devise the way to strengthen the warehousing and the financial independence of the grain grower, would facilitate the enlargement of free and active competition in his processes of marketing,

and such competition, after all, is the great safeguard of his interest. This bill will harm, rather than protect, the producer position.

The CHAIRMAN. Now, Mr. Barnes, as I understand you, you are in favor of a change that will admit to the boards of trade the so-called cooperative organizations, are you not?

Mr. BARNES. I certainly am; yes, sir.

The CHAIRMAN. That is one of the things that this bill undertakes to do?

Mr. BARNES. Yes.

The CHAIRMAN. That is in section 5.

Mr. BARNES. Yes.

The CHAIRMAN. I wish you would look at the section, subdivision (*e*) I think it is, and tell the committee whether, in your judgment, as it is now drawn it will have that effect?

Mr. BARNES. I think in subdivision (*e*) the provision is unfair to the exchange and unnecessary. It gives too wide a control to the Secretary of Agriculture over their general rules and practices.

The CHAIRMAN. The question I am now asking you is not that, Mr. Barnes, but whether, taking the bill just as it stands, without any change, those farm organizations would be admitted. The question in the minds of some who have discussed that provision is that it would not be. That is the objection to stating directly in there the one point in these organizations that has made them objectionable for admission to membership, and that is that they shall admit to membership organizations of producers who provide in their articles of organization that they shall divide their surplus at the end of a given time instead of paying a premium on their capital stock?

Mr. BARNES. I think that is all right, Senator. I think it would be much better to specifically provide that in this section, but it also ought to be restricted to cooperative organizations that handle the products of their own members and not those that go out into competition with those merchants who are handling other people's business.

The CHAIRMAN. But would not we get into this difficulty: Some of these organizations, as I understand it, in these various places, that handle their own products are, under the law, required to handle the products of other people. Take a locality where there was such an organization, they might have only one elevator in the community, and yet there might be business for two elevators there, and still there would be some farmers who did not belong to the organization. There must be a way for those people to get into the market, and some method provided by which they can sell their products.

Mr. BARNES. If they are doing a general merchandizing business, then they should do it on the general merchandizing line, on the capital-stock method and the division of profits according to investment in the capital stock of those elevators.

The CHAIRMAN. The point I am getting at, Mr. Barnes, is that when we come to practical operation, as I understand it, all of those farmers' cooperative organizations, we will find a great many instances where it is not practicable to confine them to the handling of the products which they themselves produce, because it might be an injury to the community, and it might compel people to join organizations, which, I take it, Congress or no one else would want to do.

Mr. BARNES. Suppose you make it read "handling substantially only the products of their own members"?

The CHAIRMAN. Yes.

Mr. BARNES. Something of that sort.

The CHAIRMAN. Now, let me ask you, Mr. Barnes, do the grain dealers generally share with you that opinion, that these organizations all be admitted?

Mr. BARNES. I wish I could say they did. I think they are in process of education, Senator.

The CHAIRMAN. Heretofore they have been denied admission.

Mr. BARNES. Yes.

The CHAIRMAN. All over the country.

Mr. BARNES. Yes.

The CHAIRMAN. And they have done it on that one proposition alone, have they not?

Mr. BARNES. Yes, sir. It is an unintelligent stand and I am not in sympathy with it, but, Senator, it takes a little time to educate the average man to change processes.

The CHAIRMAN. Then, we have reached one thing, at least, where we could benefit conditions, even according to your idea, by some legislation, have we not?

Mr. BARNES. I would rather do it without the legislation.

The CHAIRMAN. How long will it take for that to come about by the purely educational process, and, in the meantime, what would happen to these organizations?

Mr. BARNES. Well, of course, you have got me off my guard, Senator, because I have been telling these organizations for some months that their stand has been very unintelligent and very unfair as to these cooperative organizations, and I believe it, but it does take time.

The CHAIRMAN. How much time will it take, in your judgment? Suppose we do not legislate. How much time will it take until that process of education will have such effect on the boards of trade all over the country that they will admit these organizations?

Mr. BARNES. If you could say that this bill would be suspended conditional on their doing it, we would have it done in about three weeks.

Senator KENYON. You would have it done while the hearings are going on?

Mr. BARNES. Yes.

Senator KENDRICK. Mr. Barnes, you contend that the exchanges or the members of the exchanges as they now conduct themselves are convinced, according to economic laws, that they have nothing to fear from these associations; is not that true?

Mr. BARNES. That is my position. It is very unintelligent for them to produce an atmosphere and appearance of antagonism and obstruction to them. If they are a better facility, they are going to make their way anyway.

Senator KENDRICK. Yes.

Mr. BARNES. More than that, at this time of agricultural depression, if there was nothing but the pure psychology of it and no economic justification, they would be warranted in establishing those cooperative associations.

Senator KENDRICK. Do you not believe that, because of the prejudice, we will call it, whether justly founded or not, of the country against the exchanges, that reasonable supervision on the part of the Government would have a splendid psychological effect on the whole situation—a kind of supervision that would not hamper or interfere with trading in a legitimate way?

Mr. BARNES. Senator, I must say that I think you are right.

Senator KENDRICK. I think so.

Mr. BARNES. I am afraid so.

The CHAIRMAN. Gentlemen, I have to be in the Senate at noon to-day; so I will ask Senator Capper to take the chair now.

Senator CAPPER. Are there any further questions to ask Mr. Barnes.

Senator REED. May I ask one further question?

Senator CAPPER. Yes, Senator; go right along.

Senator REED. I am interested in this bill, although I am not a member of the committee.

Mr. Barnes, Senator Kendrick asked you if there should be a Government regulation that would eliminate these evils, that would be fair and reasonable in its character and whether you thought that would be a good thing, and you said you thought it would be. Now, do you know of any regulation, fair and reasonable in its character, that will not interfere with business and do more harm than good, that the Government can adopt?

Mr. BARNES. Well, I think, really, if you are determined that some regulation is necessary, there is something along the line of this bill.

Senator REED. I did not predicate it on whether that would determine it or not. I want to know whether you mean to say by your answer that you prefer government regulation to the system of these exchanges running their own business. Of course, we all know you can not answer that question in anything but the affirmative, because while Senator Kendrick is not a lawyer, no lawyer ever framed a question that was more possible to answer. In effect, it was: If governmental regulations can be devised that will remove all evils and do not damage, do you not think it would be a good thing, and you said yes. Now, I want to know whether you know.

Mr. BARNES. Senator, did you get my answer right?

Senator REED. Whether a governmental agency can be adopted that will remove these difficulties and not do any damage.

Mr. BARNES. Senator, did you get my answer right? I made it very clear that I thought these facilities themselves can and will eliminate these defects, and that is greatly to be preferred to the introduction of any government regulation.

Senator REED. Do you mean that these changes would do it?

Mr. BARNES. Yes, sir.

Senator KENDRICK. But you think, Mr. Barnes, as I understand you, that Government supervision of a sensible kind would greatly facilitate the movement toward correction. In other words, it would bring correction more promptly.

Mr. BARNES. I am obliged to admit that that is probably true.

Senator REED. Government supervision of a sensible kind?

Senator KENDRICK. Yes.

Senator REED. Again, you gave the whole question. Do you know of any supervision that the Government has undertaken that you want to put on the high plane of being sensible?

Senator KENDRICK. I do.

Senator REED. In business?

Senator KENDRICK. I do.

Senator REED. I do not.

Senator KENDRICK. What would your national banks be without Government supervision?

Senator REED. Oh, they are not supervised in that sense. They are under regular laws.

Senator KENDRICKS. Do you have anything to do with banks, Senator?

Senator REED. I borrow money from them.

Senator KENDRICK. I know, but do you have anything to do with the conduct of the business of banks? We all borrow money from them.

Senator REED. I know about the banking laws. That is a very different proposition, and I do not want to go into it. The Government had the right originally to regulate coinage, weights, and measures, and establish banks, and if it wants to, it can conduct them. It always has had that power, but what I am trying to get at is this, Mr. Barnes—and I do not want to haggle about it for a minute—do you mean to be understood that you think that a bill of this kind ought to be passed?

Mr. BARNES. No; I distinctly said that I should dislike to see it passed.

Senator REED. Do you know now of any bill; can you frame a bill that will remove the evils from the grain business and not produce greater evils than it removes?

Mr. BARNES. No; I could not do that.

Senator REED. You prefer Government supervision or private management?

Mr. BARNES. Private management.

Senator REED. I think I understand your answer now.

Senator CAPPER. Mr. Barnes, there was what is called a "bear" market starting along last July, was there not? That is, the wheat market was steadily going down?

Mr. BARNES. Yes; it did fall moderately, Senator. Here are the exact figures; the farm prices in wheat: July, $2.53, $2.82, $2.18, $2.14, October 1. It had fallen 40 cents in the farm price between July 1 and October 1.

Senator CAPPER. Is it not a fact that at various times while that bear market was on large operators went on the market and sold wheat in large volume, some of them possibly several million bushels, in the course of a day or two days?

Mr. BARNES. By common report, and I presume that is correct. It was done, Senator; yes.

Senator CAPPER. Now, would not that have a tendency to aggravate the situation and to further depress the market?

Mr. BARNES. Yes; while it lasted.

Senator CAPPER. And would not that work to the injury, first, of the producer?

Mr. BARNES. At that time, yes. Of course, it must be met at some stage by buying an equal weight. They must get those contracts back and induce the buying of equal force. The injustice in that, Senator, lies not so much in that transaction as in the fact,

which every reasonable man must admit, that through that process of decline under the influence of those sales, some farmer may have his confidence undermined, and market his product on the lower basis.

Senator CAPPER. Under the existing marketing situation there is absolutely no restriction or limitation upon the business that may be transacted by one trader or group of trades on the boards of trade; is not that a fact?

Mr. BARNES. Yes; I think that is true.

Senator CAPPER. For instance, Mr. Armour, of the Armour Grain Co., can go in any day he pleases and sell five or ten million bushels of wheat, having in mind that he has a large contract to fill, and for the purpose of buying under the most favorable conditions he will sell several millions of bushels of wheat with the idea of depressing the price. Is not that possible under the present grain exchange system?

Mr. BARNES. He could sell, and by the very weight of his selling depress the price; yes. But the idea that he could depress the price and thereafter at the lower level buy not only what he sold but more is rather hard to demonstrate. The market might react at that particular point. No man can manipulate those markets. He has no advantage within his own hands. He can do it by anticipating the development of economic forces that fall in behind his play, and that is about the only way that he will ever get ahead of the market.

Senator CAPPER. Unrestricted and unlimited speculations do not tend to stabilize the market in any way, but the tendency is just the opposite, is it not?

Mr. BARNES. No; I think unlimited speculation could fairly be said to stabilize the market.

Senator CAPPER. Does that particular transaction that I spoke of on the part of the Armour Grain Co., for example, who, under the present rules, can go in on the market any day and sell five or ten million bushels of wheat, assist in stabilizing the market or maintaining a steady market?

Mr. BARNES. No; because that is a transaction of great weight under concentrated direction. It is just like any combination and, therefore, is not fair, and is a matter which the exchange authorities ought to govern and regulate among themselves.

Senator CAPPER. But what steps have they taken in that direction? I ask that because I have been reading over the hearings that were held about 12 years ago in the House on this same line of legislation, and I find that representatives of the boards of trade made very much the same line of talk there as you have made here. That was 12 years ago, and except for the possible elimination of the corner, the vicious cornering of the market, you will find there is about the same complaint to-day as to the methods that are employed in manipulating the situation as there was 12 years ago. I see that the witness at that time, according to the testimony which I have been reading, gave to Congres about the same encouragement or attempt at encouragement and held out the same argument against legislation that you have advanced here to-day. Now, I am wondering myself just what actual steps have been taken by the boards of trade to clean up the market, or to at least get rid of those unfair and vicious practices that have been employed for so may years and which the producer, at least, is constantly complaining of.

Mr. BARNES. I can say this, from some 25 or 30 years' contact, that just the same as the laws of the country are only effective and supported by public opinion, the rules and regulations in an exchange are only enforceable when they have the practically unanimous backing of the convictions of the exchange members, and I can say, by way of personal testimony, that the business conscience of the exchange members is almost 99 per cent against the manipulative practices of 10 or 15 years ago, when it was thought rather smart for a man to be able to outwit his associates in that way. That is a distinct advance.

Senator CAPPER. This matter of gambling on puts and calls or privileges has been going on for many years, has it not?

Mr. BARNES. Yes; in one market, practically.

Senator CAPPER. And yet it is carried on now just as extensively; in fact, during the last six months probably a little more so than ever before. Have there been any rules and regulations of boards of trade laid down that would tend to eliminate that evil—and everybody admits it is a great evil?

Mr. BARNES. No. I think that is the fair shot at the exchanges. They should have eliminated that some time ago, because the public sentiment of the exchanges is almost unanimously behind their elimination. You are quite right in pointing out that the exchanges have failed to do that, even after public sentiment has formed, but they will do it.

Senator CAPPER. I think you will find the same statement made in the testimony that was given 12 years ago as you have made, and that is the only reason why I think there is more pressure back of this legislation at this time than ever before. There is a feeling, I think, on the part of a great many that the time has come when Congress must step in and undertake to do some of these things that the grain trade itself has failed to do.

Mr. BARNES. Senator, it is because I quite appreciate that that must be the situation, that there is pressure upon your office, that I have made these suggestions in regard to this bill. They are what I believe would preserve its constructive features and not make it destructive, although I am opposed to the regulation on principle.

Senator KENDRICK. Mr. Barnes, you agree that the fundamental thing to obtain here, under this legislation, is fair play, integrity, and fair dealing on the market, and when that is brought about is it not your judgment that the increase of confidence on the part of the public will bring benefits to the markets that they do not now enjoy?

Mr. BARNES. Senator, I must answer yes to that, too.

Senator KENDRICK. It is my opinion that if it is as unfair as you say to indict everybody who deals on the exchanges with wrongdoing as it is in any other line of business, the very fact that the Government speaks for everybody, it seems to me would bring to the situation a more wholesome atmosphere than it has ever enjoyed. We may criticise the Government as much as we please, but, after all, the people of this country have a great and abiding faith in the Government, and I think they would have faith in that sort of thing, for the reason alone that it is a disinterested agency, speaking for all. I do not believe that supervision would necessarily mean very much of regulation, and it should not, according to my judgment. Do you

think it would necessarily interfere very much with the operation of the exchanges and trading?

Mr. BARNES. Well, you see, we are quite in accord as to the desirability of all of the enactments in the bill up to the point of intrusting in some hands the authority to close those exchanges. That, I think, is fatal because it undermines the trading.

Senator KENDRICK. That could be done with great discretion; I have no doubt about that.

Mr. BARNES. That is true. If you can alter that so as to put certain safeguards and assurances that it would not have the hasty judgment of any single man, no matter what his office, you have modified that very considerably.

Senator KENDRICK. I agree with you that there should be no hasty or ill-considered action.

Senator CAPPER. Are there any further questions of Mr. Barnes? (No response.)

Senator CAPPER. That is all, Mr. Barnes. We are very much obliged to you.

I understand that Mr. Moore, of New York, is here and desires to be heard.

Mr. MOORE. Yes, sir.

Senator CAPPER. All right, Mr. Moore, we will hear you now so that you may return to New York. It will probably not take very long.

STATEMENT OF MR. WATSON S. MOORE, MEMBER OF THE DULUTH BOARD OF TRADE.

Senator CAPPER. Mr. Moore, state your name, residence, and whom you represent.

Mr. MOORE. Watson S. Moore, Duluth, Minn., member of the Duluth Board of Trade. I am temporarily in New York.

Senator CAPPER. Just proceed in your own way and make whatever statement you desire, Mr. Moore.

Mr. MOORE. I appear before you as a representative of the Duluth Board of Trade, of which I am a member. I am a member of other grain exchanges. I have been a grain shipper for 30 years.

There is comparatively little so-called speculation on the Duluth Board of Trade, but the volume of future trading in that market is heavy. The prices and trading are, of course, influenced by the general market movements, both at home and abroad. The major portion of the trading in futures on the Duluth Board of Trade is:

In selling and buying for account of the farmer or country dealer.

Buying from the country dealer or commission merchants, and selling to shippers, millers, or exporters by the terminal elevators.

Buying of cash wheat and futures by the local miller and representatives of eastern millers and the selling of futures as a hedge against all or part of said purchases.

Buying and selling by traders—or spreaders—who hedge their purchases or sales in other markets. Spreaders are traders who make a specialty of studying relative values between markets, and the relative values between the different varieties of wheat and between the different futures in the different markets and trade accordingly.

These traders are not manipulators but trade on their judgment as to the relative values of the various factors mentioned, and trade

almost entirely in the futures. They are therefore an important factor in stabilizing prices and checking sometimes what might be otherwise evil results of speculation, and render service fully commensurate with the profits they receive.

There has been as much as 20,000,000 bushels of wheat held at one time in the Duluth elevators and as much as 75,000,000 bushels in the terminal elevators of the country, and there is now over 40,000,000 so held and more in mill elevators, mill stocks, and country elevators most of which is ordinarily hedged in futures. These futures are bought by speculators, by millers against flour sales, by exporters against sales abroad, and by producers who could not afford to carry their grain themselves, but believing in higher prices—when they sold their actual grain, purchased an equivalent of futures—which this year they were able to do at a discount. Some producers lost by this operation and sold out their futures when the general deflation spasm struck the country—others held on and have been able to make from 30 to 40 cents a bushel by reason of the advance, and because of the opportunity afforded by future trading.

Trading in futures makes for a free and open market. All the world knows the price—the producer, the banker, and the consumer. This would not always be the case if future trading were discontinued, and the business forced into the hands of a few large concerns. The system of future trading gives an opportunity to the man with small capital to enter the business, and if future trading is discontinued, this class would likely be eliminated as it now is pretty generally from the large businesses of the country.

Future trading makes it easier to finance the crops. The banks will loan more generously at lower rates of interest, and on smaller margin than they would if future trading were discontinued. They know all the time the cash value of their collateral and can collect at any time. Wheat is almost the same as cash when it is off the farm.

The discontinuance of future trading at the present level of prices would surely cause a panic in the grain trade. Bankers would require very heavy margins on their loans against wheat. Grain concerns moving the grain for export would find greater difficulty in financing the operation and would therefore require a larger profit to take care of possible risk of loss.

There is some trading in futures which can not be classed as legitimate and it is difficult to get at and correct such trading. It is also difficult to enforce the eighteenth amendment, but the country is not going to repeal the act on that account. The Government and exchanges should work together to correct these abuses which have grown out of illegitimate trading. To destroy such a useful business agency because it is abused by some people would be a great mistake. To discontinue future trading would certainly mean the destruction of one of the most useful pieces of economic machinery ever set up to do business. The exchanges working alone have corrected and continue to correct abuses as they appear. All exchanges, I think now, have a corner rule and have almost eliminated this serious bane of future trading. The Capper bill would, to all practical purposes eliminate future trading.

To illustrate, referring to paragraph B, section 1.

In the Duluth market, to buy 10,000 bushels of cash wheat in the Duluth elevators and sell 10,000 bushels to an eastern miller or exporter, the shipper trades ordinarily in 60,000 bushels. He buys 10,000 bushels of wheat from the terminal elevator operator and sells the elevator operator in exchange 10,000 bushels of the most active future in the Duluth market. The shipper then buys the 10,000 future in the Duluth market and sells 10,000 of the most active future in Chicago. Most sales of cash wheat to millers and exporters in the United States are based upon a Chicago future, Chicago maintaining the most active future market and most convenient for the majority of the trade. The Duluth shipper then sells to the eastern buyer who in turn sells him 10,000 bushels of the most active future in Chicago in exchange—60,000 traded in—in all, to sell that 10,000 bushels of cash wheat, but owing to quick telegraphic service all parties are at practically little risk from market fluctuations and the shipper is willing to render this service whenever he thinks he can see half a cent profit in the transaction, and often for less, especially when the volume is larger.

To summarize: Future trading is the most important factor in stabilizing price.

It enables the producer to get more money for his product than he would otherwise.

It enables the consumer to secure his food for less than he otherwise would.

From the report of the House Agricultural Committee, Congress appreciates the value of the grain exchanges to the economic life of the country. It also understands the important place of hedging in the grain marketing plan.

It is also generally understood by the national legislators and the commercial world generally the useful and legitimate activity of the investor or speculator in stabilizing values, and especially in reflecting world conditions into the price of grain. The manipulator is an undesirable factor anywhere. He sometimes injects himself into the business of the exchanges, but not so often as in other businesses, or to such a harmful extent, such as building construction and building materials, as recently disclosed. This is partly due because of the searchlight of pitiless publicity, which is constantly playing upon the operations of the exchanges, and partly due to the careful supervision of the trade by the exchange and its manipulators, and I do not know of any trade where discipline is administered to its members so severely for uncommercial conduct toward interests outside the trade, as on the grain exchanges.

I have several illustrations of that point, if you care to have them.

Senator CAPPER. We will be glad to have them.

Mr. MOORE. At this point?

Senator CAPPER. Yes; if you will give them.

Mr. MOORE. A question came up in Mr. Barnes's testimony as to the action of the exchanges in relation to corners. I sat on an arbitration committee on the Duluth Board of Trade to determine the prices that should be settled on on some defaulted flax contracts, where probably the largest flax industry in the world was the holder of the contracts. I do not know whether you need the name of that concern. I do not know whether I should mention it here or not.

Senator CAPPER. It would be well if you can give it to us.

Mr. MOORE. The American Linseed Co.

Senator CAPPER. It is well to have that.

Mr. MOORE. The seller was a commission merchant representing a producer, whose name I forget just at this moment. But the committee reduced the amount of the settlement claim by the American Linseed Co. to the price that was generally governing in other markets, and related to the cash markets. So that meant somewhere around 20 cents less than the price that was to be exacted by the American Linseed Co. So the price was reduced that amount, and there was a small penalization on the seller for not exercising what we thought was due diligence in getting the grain to the market.

Senator CAPPER. Who benefited by that reduction?

Mr. MOORE. The producer, because he had this flax in the country, through a shortage of cars or carelessness in the method of handling it, or something of that sort, and we took the position that he should not be penalized to any such extent.

There are other illustrations in point just recently of severe discipline outside of the exchanges.

The New York Produce Exchange recently disciplined members, very prominent members for the shipping of grain of an improper character on contracts abroad.

Senator CAPPER. You say "disciplined." What do you mean by "disciplined"?

Mr. MOORE. They suspended three members from the privileges of the exchange for a year, and another concern for three months, which was implicated in it, besides requiring full settlement in cash.

Senator CAPPER. What exchange did you say that was?

Mr. MOORE. The New York Produce Exchange.

Senator CAPPER. The New York Produce Exchange?

Mr. MOORE. Yes; in addition to the ordinary discipline of their own members, which is in the interest of people outside of the exchange doing business with it.

I feel that the spirit back of this proposed legislation means to be constructive and intends to deal fairly with all interests affected. I am not here to object to Government supervision of exchanges, if Congress feels that the public welfare requires it. I am in substantial accord with Mr. Barnes on that point, that I think the exchanges are making substantial progress, as shown by these illustrations I have given, in the conduct of their operations.

I particularly advise against operation of exchanges by the Government. A reasonable supervision I can conceive might not be harmful under certain control, and I can conceive how it might be useful.

Senator CAPPER. I might say right there that out in the country the chief offender, that is, as far as the public sees it, is the Chicago Board of Trade. Do you know anything about discipline on the Chicago Board of Trade?

Mr. MOORE. I know only from history, that they have disciplined members for their actions. There was the case of one very prominent concern which was suspended, I think, for a year.

Senator CAPPER. How long ago was that?

Mr. MOORE. Several years ago. The president of that concern was subsequently released by the corporation and is no longer with them. Another concern was suspended for three months for an infraction of a rule.

I can see how the very fact that the Government might at any time investigate conditions and review transactions could have a tendency to keep those traders who might be inclined to over-trade or undertake manipulations to keep within bounds, and thus help to maintain healthful conditions in the trade. But all of this the exchanges can accomplish themselves.

I have no sympathy with opposition to helpful interference with business on the part of the Government, where the business has grown indifferent to the just and equitable principles of trade. The important point is to guard the way the Government supervision is to be exercised, if it seems best to have it, so that it will work good instead of harm. For instance, it would have a very harmful effect upon the same business if the trade were placed in a position of constant fear of the sudden stoppage of future trading, a most important part of the marketing machinery, with the sure losses which would follow such a dislocation of the business.

There is nothing so feared as money and folks that have it will not invest in any proposition where there is any uncertainty about it, and if this were hanging over the trade it would certainly narrow the market and reduce the buying power.

The initiation of such drastic action should at least not be left with one Government official, no matter how good, conscientious, or able a man he might be. It might be all safe and sound for baseball, but we ought not to have it in the grain business. It should be in the hands, as you gentlemen probably already see from the facts that have been presented to you, of a group of men.

The same objection holds to one officer having authority to designate a contract market. To make it or unmake it should not be left with an individual.

The report requirements seem unnecessary and burdensome, so far as the exchanges are concerned. One of the most difficult propositions to put over by the grain corporation was the reports that were required, and about the only way that we were able to get them in a satisfactory manner was to tell the people it was necessary in order to win the war. Then they came across. It is an irritation to everybody connected with it, and it seems to me, in this operation, that it is not particularly necessary; that if they would require the exchanges to require the individuals to have in their own offices a complete history of every transaction from its initiation to completion, to be ready and available for the board, to be used by the Government on call, that that should be sufficient so that they can base the action on the information required to be there.

Responsibility more directly on the exchanges for proper conduct of their members. Manipulation is so infrequent and usually obvious when it is in process that the exchanges can easily check it when they see the strong arm of the Government is behind it, with their laws already existing. It will not be so easy for people to make that complaint to an officer of the Government, that there is manipulation in the market, because of their disappointment at the course the market has taken, and to get the Government to help them.

It seems to me that it would help to restrict congestion or manipulation if the exchanges provided that contract grades and other markets be made available for delivery on contracts in other markets, where congestion natural or premeditated, is in evidence, with proper protection for the buyer who has contracts to meet.

No trade can have reasonable prosperity without fair compensation for service, and to have a right to resist a breakdown, by legislation or by indirection, of the plan for remuneration for such services as indicated in paragraph 3; but the suggestions that have already been made by Mr. Barnes, concurred in, apparently, by Chairman Norris, settle that point. Therefore, it is not necessary to elaborate on that.

It seems that in section 8 it would be very unwise also to leave the matter of publicity or information to be made available to the judgment of one officer. I think that no business should be afraid of reasonable publicity. As the scriptures say, there is nothing hid that will not be revealed, and we should not be afraid of reasonable supervision and regulation, if it seems to be advisable.

The same book also says, "Everything my Heavenly Father hath not planted shall be rooted up." When the industrial world is dividing up into groups to push litigation in the interest of their particular groups, which may or may not be against the public interest, calling for open shop for others and endeavoring to fix closed shops for themselves, it is worthy of note that the grain exchanges stand for the absolute American principle of open shop for all, in practice, open quotations available every day to the members who are using them, and giving to the public open information, information that is collected with great care and at tremendous expense on the exchanges, open to the public, where it can be telegraphed by wire or by press; open opportunity for business on the exchanges, down, practically to the possession of character, for admission.

While on some exchanges the charge for membership or what it costs would run up as high as $6,000, in every market a membership is available on the basis of rent, with practically even opportunity to to every man of small means who has character, who desired to enter into the business.

Senator CAPPER. That is in Duluth?

Mr. MOORE. In all the exchanges.

Senator CAPPER. Is that true in Chicago?

Mr. MOORE. Yes; you can rent a membership and go ahead and do business and not have a dollar. You are restricted, of course, as to the amount of business you can do, according to what money and credit you have, and you can get in as a broker. The business is open on the exchanges, whereas, in other businesses of life, they are gradually being restricted, and this is without restriction as to race, color, or previous condition of servitude.

Senator KENDRICK. Mr. Moore, can more than one man rent the same membership?

Mr. MOORE. No.

Senator KENDRICK. That is to say, does the original holder of the——

Mr. MOORE. No; the process would be that that would have to be transferred to his name and then indorsed back to the holder.

Senator KENDRICK. Would that prevent the original holder of the membership from engaging in operations at the same time?

Mr. MOORE. Yes; his privilege is gone when he rents it. It goes to the new owner who is elected a member, and he holds that certificate, which has a market value.

is going to take the wheat. It sometimes happens that he resells it to some one else. The exporter might resell it to the miller, as often happens.

Senator REED. But that is actual wheat?

Mr. MOORE. Yes.

Senator REED. Now, you spoke a minute ago of a sale of 10,000 bushels of wheat which resulted in purchases and sales of 60,000 bushels. Surely, the man who made that large number of purchases and sales knew what he was doing. He knew he was not buying the actual 60,000 bushels of wheat. He knew he was buying 10,000 bushels of wheat. Now, do you mean to tell us that there is no way by which the board of trade could adopt a system of rules or a system of business that would enable them to know whether a man was actually buying wheat or whether he was simply going in and trading on the market for the purpose of speculation?

Mr. MOORE. Well, it is possible, but very cumbersome.

Senator REED. Well, is it not practicable?

Mr. MOORE. Not practicable; no.

Senator REED. I wish you would tell me, for my own information, because, while I have to vote on this bill, I am not on this committee, why a man buying 10,000 bushels of wheat finds it necessary to sell 10,000 bushels of wheat. Take your illustration, and take your first step. He buys 10,000 bushels of wheat at Duluth. Then what does he sell the 10,000 bushels of wheat for and where does he sell it?

Mr. MOORE. Well, the first——

Senator REED. Following that illustration that you gave us this morning.

Mr. MOORE. Yes; the first move is that I bought 10,000 bushels of actual grain, contracted for the warehouse grain, 10,000 bushels of the elevator which owns it and which has it hedged in, say, for December delivery in the future. He bought it from a commission man, who has handled it for the producer or elevator. That elevator has bought it and sold on December option or future in that market at a premium if he is looking for storage or if he expects to sell it quickly. So I go to him and make him an offer to buy that 10,000 bushels of wheat and sell him that December future.

Senator REED. Why do you sell him the December future?

Mr. MOORE. Because I bought cash from him, and I do not want to be a speculator in the market. I am just a cash handler, and plan to keep even on the market all the time. So whenever I buy cash, I sell the actual cash, or sell a future; I am always even on the market. That is the procedure of the ordinary elevator man; that is the procedure of the ordinary cash merchant.

Senator REED. That accounts for one sale. What is your next step?

Mr. MOORE. My next move is that because most of the eastern millers buy their wheat on the prices of the Chicago market, for instance, they may have sold their flour, and when they have sold their flour, not being ready to buy cash wheat, bought the Chicago future; so they had, for instance, 10,000 bushels of wheat future bought in Chicago against a future contract of flour to deliver.

Senator REED. Yes.

Mr. MOORE. So when they were getting ready to grind the wheat into flour, they looked around for the kind of wheat they wanted to

buy. They say they want 10,000 bushels from Duluth, and they send me a request for an offer. In the meantime I had bought on the exchange my 10,000 futures in and sold 10,000 futures in Chicago, because my expected buyer would want an offer on the basis of that future. So, it brings my 10,000 cash into the position of having the Chicago future sold against it. I am then in the position to offer to this eastern miller 10,000 bushels of cash wheat in exchange for the Chicago option, and we come to terms and the sale is made.

The reason we do it that way is because we can do it with greater safety, and also because it is a safe way of doing it, we do it for a smaller margin of profit. A simpler but more expensive way would be to buy 10,000 bushels of cash wheat on the Duluth market and wait for my buyer to appear; but I have seen our market go six weeks without the appearance of a buyer. If I was in the cash business, I would have to exercise my judgment and wait for my miller to appear. Therefore, I am not taking that long risk whether he will appear or not, and whether market conditions will change or not. Therefore, I must have a larger margin of profit to work in that simpler way.

Senator REED. That is what you call hedging?

Mr. MOORE. Yes.

Senator REED. Now, you know, of course, that that is a hedging transaction?

Mr. MOORE. Yes.

Senator REED. Is there any reason why you should not state when you buy this wheat that you are buying it as a hedge, and thus the fact would appear that you are not expected to deliver the actual wheat, so that there could be a record made in the exchange? I am just asking you for information?

Mr. MOORE. Yes; I think there is no question but that you could do it; but, for instance, if I sell two or three hundred thousand bushels in a day and the other concerns are doing the same, for export, it would take pretty nearly the storage facilities of the forces available to file our records, without taking care of the wheat.

Senator REED. Now, let us see about that. When I come in to buy 10,000 bushels of wheat from you—and this is going to be a square up and up wheat transaction—you make a record on our books, do you not?

Mr. MOORE. Yes; we have our complete records.

Senator REED. Yes. Suppose I tell you that I want this wheat, how much time would it take you to write out the actual delivery after that?

Mr. MOORE. To keep the record?

Senator REED. In your books. You do keep a record of the transaction?

Mr. MOORE. From the initiation of the transaction to its completion?

Senator REED. Yes.

Mr. MOORE. We have our regular forces to do that.

Senator REED. Now, suppose you go out to hedge that—you do hedge it, do you not?

Mr. MOORE. Yes.

Senator REED. You go and buy 10,000 bushels of wheat from Senator Kendrick, or you are buying it for a hedge. How much work is there to have that record made?

Mr. MOORE. We keep that same record.

Senator REED. You keep that same record?

Mr. MOORE. Yes.

Senator REED. Now, at the end of that day's business, you add up your transactions for that day, do you not?

Mr. MOORE. Not necessarily. They are there if we want to add them up.

Senator REED. Well, don't you generally summarize your books every night?

Mr. MOORE. We find the balance.

Senator REED. And is not each transaction stated, and the price, and so many bushels of wheat sold; is not that a daily thing?

Mr. MOORE. Oh, no; not in all of the transactions; only a few, to make them typical.

Senator REED. Is the bulk of the business given?

Mr. MOORE. No.

Senator REED. So many bushels of wheat handled?

Mr. MOORE. No; not even the bulk. It is enough to be indicative of the market, so that the seller or producer would know that when his wheat was sold it was sold at the right price.

Senator REED. How many members are there on the Duluth Board of Trade?

Mr. MOORE. I think we have some 150 members—fifty or so active members.

Senator REED. Do you think it would be a very burdensome thing if each of those members at the end of the day added their sales, and if they had it indicated to them whether the sale was an actual sale or a hedge or speculation, to state 300,000 bushels of wheat actually sold for delivery, 200,000 bushels of wheat hedged, and 100,000 speculation? That would not be very difficult, would it?

Mr. MOORE. We would have our record that way all the time.

Senator REED. You do do it that way?

Mr. MOORE. Yes; and it seems to me that it is unnecessary to duplicate that work to give it to the exchange, and put them to the expense of taking care of it, having it done as we do it now for our own records, to have the exchanges be required to have their members keep such a record where it would be available at all times for the exchange, for the use of the Government.

Senator REED. I am trying to follow a little different line in my mind, Mr. Moore. I may be wool gathering, too, for I do not know much about the grain business, as you have probably discovered. You keep your books that way, and I assume that other responsible firms keep theirs in that way. Now, how much actual work would there be involved in their reporting those totals to the clerks and letting them add them up so that the newspapers of the country would announce that there were so many bushels of wheat sold, so much of it was actual sales, so much of it was hedges, or speculation? That would not be very burdensome, would it?

Mr. MOORE. No; not burdensome in our market, especially when we deal in large volume, when we sell in fifty or one hundred thousand lots. It would not be so burdensome, although it would require extra clerks to do that.

Senator REED. Well, let us see: You have your books there, and you have them added up at night. Now, are there 150 members.

They, therefore, would have 150 accounts to tabulate on the adding machine. Now, Mr. Moore, you do not want to tell me that that is very hard to do?

Mr. MOORE. No.

Senator REED. No. We have now arrived at the point where it is possible to separate substantially, but not perhaps with absolute accuracy——

Mr. MOORE. Of course, our market, if you will pardon me, Senator, is a rather simple market in its operations.

Senator REED. Oh, yes. But they are all supposed to keep these books, and they do keep them; but let us assume that this was done in the country, so at the close of the day's business anybody watching the sales could tell something more than merely the volume. He could tell how much of it was actual sales, approximately, and how much of it was legitimate hedging, approximately, and then he could determine how much of a speculative element there was in that market.

Mr. MOORE. Now, Senator——

Senator REED. Now, I am asking you if that could not be done in that way?

Mr. MOORE. Well, it would not be fairly representative. For instance, take this illustration I gave you: There is only 10,000 cash wheat and we deal in 60,000, and all legitimate. That is five times. Apparently, to an outsider, that is purely speculative, and yet it is all hedging.

Senator REED. But those are legitimate hedges, and they reproduce themselves, just like bank deposits do, for the same thing is true in banking. The same thousand dollars may be deposited in five or six banks at the same time.

Mr. MOORE. There is another point, Senator——

Senator REED. But what I am trying to get at—I am not going to argue the question, Mr. Moore—is whether it is not possible, now, by making reports such as I have indicated, to distinguish between a straightout sale and the hedges that are made to protect that sale and thus arrive at the residuum, which would represent pure speculation. Now, I am not saying that speculation should be prohibited, nor that hedging should be prohibited; but if a man were to sell wheat that he had in his bins, and saw that the market had suddenly gone up or suddenly gone down, and knew that there was a very large speculative element to it, he might be in a better position to operate wisely than if he knew nothing about the market except that a vast lot of wheat had been sold.

Mr. MOORE. The trouble would be that he could not rely on that information as to what was legitimate and what was speculative.

Senator REED. Well, is there no way in which the exchanges can get it approximately?

Mr. MOORE. For instance, we might get an order for 50,000 bushels from a New York man. We would have no means of knowing, unless we asked him, whether that was a speculative order or whether it was going to a mill, or whether it was going to an exporter.

Senator Reed. Suppose he were required to state, by law, and suppose there was a false statement made?

Mr. MOORE. I think he would tell you the truth, no matter which way. That has been our experience. But if it was bought for the

exporter, we might then have an order from the other side. The party did not want the wheat, just buying future as a speculation. That order coming from the other side, he may have the information from the man that sent the order, or maybe he could not get it, unless there was some way required by law.

Senator REED. This is what I have in mind. Mr. Moore, and perhaps some of you gentlemen, may be able to figure it out. I do not believe in the Governent interfering with business. I believe every time it has been done it has done damage. I do not believe any man has sense enough to run the business of this country or any branch of it, all of it, but I do believe that there is and has been a lot of speculation and cornering, either totally, or partially, of the grain of the country, as well as manipulation of markets. I not only believe that, but everybody else in the United States believes it, that has any sense; but I believe it is over stated. Now, if a man who wants to deal could know the actual condition of the market, he would then deal with his eyes open, and I want to know if there is not any means by which the grain trade can separate the speculative from the legitimate transaction, so that the public can be advised and know what it is doing. I do not ask you to answer that if you are not prepared to, but I shall say that it could be done. I do not see why a thing of that kind should have to be done, but I am not sufficiently familiar with the business to speak by the cards.

Mr. MOORE. Well, there might be twenty or thirty, or forty or fifty million bushels that might be sold in this country that we would construe as not being speculative. It was bought for interests on the other side of the water, and it would prove to be a purely speculative transaction. That particular wheat, if it sold for export on the other side, gives a man a profit, and he frequently turns around and resells it here, and he never exports at all. How would you classify that?

Senator REED. Well, of course, there you state a case where you introduce the ocean into the transaction. Why could he not be required to state his purpose, and, of course, if he told what was not true about it, we might have no means of going over there and punishing them. The foreign trade might be very difficult to handle, but the foreign purchaser very seldom comes in and corners the wheat market.

Mr. MOORE. Well, suppose this Senator: Suppose he states that he expects to take that wheat, but a situation arises where the Argentine crop comes in, and he finds that he can buy that wheat down there at 10 cents cheaper?

Senator REED. I would call that a legitimate purchase, would not you?

Mr. MOORE. But he does not take the wheat in this country.

Senator REED. He intended to take it.

Mr. MOORE. He intended to take it, but he did not take it. He changed his mind.

Senator REED. Exactly.

Mr. MOORE. He turns it back.

Senator REED. Anybody else might do that.

Mr. MOORE. Yes.

Senator REED. But what I am getting at is this speculative market, where the man simply goes in, as you know is done every day, and

sees that wheat, and without any notion at all of ever handling a bushel of it; he goes down to a broker or he wires a broker, "Buy me a thousand bushels of wheat." Now, is there not any way in which that can be reached?

Mr. MOORE. I do not think you can reduce it to figures. The only way that you can tell is this: This man trades; he has use for the wheat, and expects to use it. This other man usually trades speculatively, or he trades between the markets. We can only distinguish generally. I do not see how it could be reduced to actual figures.

While I am speaking on this, I want to take up another proposition, about the cumbersomeness of those reports. That, of course, would have to extend clear to the country, where these elevators buy their stuff in 20, 30, 40, 50, or 75 lots. You can figure up in your own mind what that would run to in the way of reports.

Senator REED. That is where they buy?

Mr. MOORE. Yes.

Senator REED. Well, there they have the wheat, naturally.

Mr. MOORE. But you have to make that in your report.

Senator REED. Oh, I am speaking of the exchanges.

Mr. MOORE. But they have to give an account for the reason of their selling against those purchases on the exchanges.

Senator REED. Well, that is a detail. I think it would be a very wise thing for the grain men to find some means to advise us of that.

Mr. MOORE. That is our suggestion, Senator, that in each of these offices they keep their records as they do now, but to be sure to hold them to be available to the Government. What is the use of having the same reports compiled in different places?

Senator REED. The difference is this: If you have it in your office, and I am dealing in grain, legitimately, now. I have to go to your office and all the other offices and then to all the different markets of the country, and I do not do it; I can not do it; but if there was some way devised whereby a summary of those transactions would be given to the public press from the different markets of the country, five or six of our great markets of the country, then a man wanting to purchase grain or sell it would have some real knowledge, possibly, of the actual conditions. Now, you say they can go to your books, but that is hardly practicable.

Mr. MOORE. We would be keeping them for the Government or the exchange.

Senator REED. I am trying to keep it out of the hands of the Government now. I am asking you whether a rule could not be devised by the exchanges, without even a law passed by the Government, requiring these matters to be published, and then I am inquiring further whether that really would do any good? You seem to think it would be all right for the Government to come and inspect your books.

Mr. MOORE. I do not know whether I want the——

Senator REED. The Government would not be able to do it in time to do any good, because grain goes up and it goes down very quickly, and the price might change fifty times while that inspector was getting there.

Mr. MOORE. Yes; but the Government only wants to get that information in order to correct abuses, and then the matter of time is of little value.

Senator REED. But to correct abuses by more legislation?

Mr. MOORE. Yes; and in that also the matter of time amounts to nothing.

Senator REED. Well, the Government would get no more information when it undertakes to inspect your books than you can lay before the Government or the public at any time. I do not know, but maybe you want the Government inspector down in your office, but I do not think it is a good thing for the Government to be doing it, unless it is necessary as a last resort.

Mr. MOORE. Well, we are not inviting it.

Senator REED. No. Well, I have made the suggestion in my talk and my question.

Mr. MOORE. I think, Senator, you will find that information is more general and more copious in the grain business than in practically any other business. That is now available to the public and available to their own members. It shows the grain available and where it is available; it shows the needs, the crops, the study of the crops, what is in the interior, and what is likely to come out, the visible supply in the interior elevators, and all of that information. We constantly increase the volume of the information for the use of the members and also by the public. I do not know of any other trade that furnishes its members with so much information to apply to them for the purpose of basing their operations on it.

Senator REED. Well, I am much obliged to you.

Senator CAPPER. The committee will adjourn until 10.30 o'clock to-morrow morning.

(Whereupon, at 1.05 o'clock p. m., the committee adjourned until to-morrow, Wednesday, June 1, 1921, at 10.30 o'clock a. m.)

FUTURE TRADING IN GRAIN.

WEDNESDAY, JUNE 1, 1921.

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE AND FORESTRY,
Washington, D. C.

The committee was called to order by the chairman (Senator George W. Norris) at 10.30 o'clock a. m.

Present: Senators Kenyon, McNary, Capper, Ladd, Norbeck, Smith, and Kendrick.

The CHAIRMAN. The committee will come to order. Is there anybody here who wants to be heard on this bill this morning?

Mr. CHARLES H. WRIGHT (president Omaha Grain Exchange, Omaha, Nebr.). Senator Norris, I would like to put on a witness from Nebraska—Mr. Duff, of Nebraska City.

The CHAIRMAN. All right, Mr. Duff.

STATEMENT OF MR. E. A. DUFF, OF THE DUFF GRAIN CO., NEBRASKA CITY, NEBR.

Mr. DUFF. I have not very much to say, Senator.

The CHAIRMAN. Let us have your full name, please, your business, your residence, etc.

Mr. DUFF. Yes. My name is E. A. Duff, of the Duff Grain Co., Nebraska City. I come here as a country dealer. We operate 30 elevators in Nebraska and Kansas. Four or five of them are in Kansas.

The CHAIRMAN. Is that a corporation?

Mr. DUFF. Yes.

The CHAIRMAN. Or do you own it as an individual?

Mr. DUFF. No; it is the Duff Grain Co.

The CHAIRMAN. And what is your connection with that company?

Mr. DUFF. I am the president of the company.

The CHAIRMAN. You are the president of it?

Mr. DUFF. Yes, sir.

Of course, we are buying, as you understand, direct from the farmers through our agents at our company stations.

Now, on the question of hedging, when our agents report purchases from the farmers, we hedge this grain mostly in Chicago, because it is the broadest market. We buy the grain on the basis of options and sell that option, and sell it quicker than we can the cash. Then, when we dispose of the cash we have to buy in that option, and the price for our cash is based on the option at that time.

Now, during the war——

The CHAIRMAN. Now, Mr. Duff, I think you will make it plainer to the committee if, instead of saying "buy an option" and "sell an option," etc., you tell the committee just what you actually do.

Mr. DUFF. Well, we buy 25,000 bushels of corn at the present time, say. We wire to Chicago, "Sell 25,000 July corn." That is a hedge.

The CHAIRMAN. Yes.

Mr. DUFF. Now, it does not make any difference to us whether the option market goes up or down. If it goes up, we lose in our hedge and gain in the cash.

The CHAIRMAN. Let me ask you some questions right there. I think I understand, but I would like to have it explained, so that anyone reading the record will understand it. The committee will probably understand it, but there may be some questions that we want the record to show.

Mr. DUFF. Yes.

The CHAIRMAN. Now, we will assume that you get a report to-day from the elevators that in the aggregate they have bought to-day 25,000 bushels of wheat. You immediately wire the Chicago Board of Trade to sell for you 25,000 bushels of wheat?

Mr. DUFF. Just a moment. Of course, wheat at the present time is not in the same position as corn as to hedging.

The CHAIRMAN. Take corn, then.

Mr. DUFF. Yes; take corn.

The CHAIRMAN. All right. Suppose you take corn. You buy 25,000 bushels of corn and you wire to Chicago to sell for you 25,000 bushels of corn?

Mr. DUFF. July corn.

The CHAIRMAN. July?

Mr. DUFF. Yes.

The CHAIRMAN. All right.

Mr. DUFF. Now, when that grain is delivered to our elevator and we see if we can not get cars, and we want to sell the corn, we will sell to somebody that corn on the basis of Chicago option, we will say 1 cent under the Chicago option. Now, we have the option sold.

Senator CAPPER. To whom would you probably sell that?

Mr. DUFF. Well, any firm in Chicago or Kansas City or Omaha or Minneapolis or any market.

The CHAIRMAN. That is, when you sell these 25,000 bushels of corn that you bought?

Mr. DUFF. We have sold the option. You see, we really have it sold.

The CHAIRMAN. Yes.

Mr. DUFF. When we sell the option in Chicago.

The CHAIRMAN. Well, you have sold your corn?

Mr. DUFF. Yes; we have sold the option.

The CHAIRMAN. I am speaking of the corn you bought and which you have in your elevators.

Mr. DUFF. It is practically sold; yes.

The CHAIRMAN. By means of this hedging operation?

Mr. DUFF. Yes.

The CHAIRMAN. But you do not deliver it according to your sale; you do not deliver that corn?

Mr. DUFF. We reserve that right, and if we want to carry it, say the cash is 1 cent or 2 cents under July, we carry it to July, just at the right prices in Chicago. We ship it to Chicago, and as we sell it we buy in the option, and that closes our option trade and the cash trade.

The CHAIRMAN. Now, suppose you bought your corn in Chicago, your actual corn, and shipped it to St. Louis?

Mr. DUFF. Yes, sir.

The CHAIRMAN. Then, you would close out your option in Chicago?

Mr. DUFF. We would close it out. We close it out when it arrives or close it out before it arrives.

The CHAIRMAN. You close it out without regard to the actual corn you sell to somebody else?

Mr. DUFF. No; we would have to deliver this corn to somebody, and we would close out the option. We would say to them to pay 1 cent under the Chicago option at St. Louis, and they would say all right. So, on the basis of the 25,000 when the July price was 64 cents, and we bought it in at 64, that would give us a price of 63, if it was a cent under Chicago.

The CHAIRMAN. Now, suppose I come along to-day and say, "Mr. Duff, I want these 25,000 bushels of corn." You can sell it to me?

Mr. DUFF. Yes.

The CHAIRMAN. The actual corn?

Mr. DUFF. Yes.

The CHAIRMAN. Suppose you did sell it to me? Then, what do you do with the Chicago option?

Mr. DUFF. I would tell you to buy in for our account.

The CHAIRMAN. No; I may be a farmer. Suppose I came to you and bought the actual corn, calling for delivery to me?

Mr. DUFF. Well, that is the way.

The CHAIRMAN. You would not tell me to sell in Chicago?

Mr. DUFF. Yes.

The CHAIRMAN. But I bought from you.

Mr. DUFF. Yes; but we would want you to buy in that option. Say I sell you the corn at 1 cent under Chicago in July at St. Louis. I would say, "Well, you buy in July." Whatever you get it at, that would be the price less 1 cent that I sell to you for.

The CHAIRMAN. If I were a feeder located in your town and I bought 25,000 bushels of corn from you and you turned it over to me, you would not require me to take care of your option at Chicago, would you?

Mr. DUFF. We would just wire Chicago to close out the option.

The CHAIRMAN. You would do that, then?

Mr. DUFF. Yes, sir; but in the general trade on a terminal market it is bought on the basis of whatever it is bought at, at whatever price

The CHAIRMAN. All right; go ahead, Mr. Duff.

Mr. DUFF. We figured during the war, when we did not have the options on wheat, when we did not have any place to hedge on the market for our purchases, that we would have to work on a larger margin because we could not turn it over so quickly.

The CHAIRMAN. That means that you would not pay the farmer quite as much?

Mr. DUFF. We had to figure on our margin. Like other business, we are borrowing money from the banks, and the banks, of course, want to know just how we are handling our business, as much as they can, and they even ask if we are protected by hedges on our purchases. We have to have a broad market before we can hedge, and that is where the speculator comes into play by being willing to

take a chance that we will not take. They tried in Omaha to have an option market, but it was not broad enough. That is the reason Chicago has been the broadest market; that is the one that has had most of the hedges in, because they can get in and out very quickly.

The CHAIRMAN. What do you mean by not being broad enough?

Mr. DUFF. It costs money to get in and get out.

The CHAIRMAN. How?

Mr. DUFF. If there are only a few of them trading there we can not buy or sell quickly.

Senator KENYON. Are you located in Chicago?

Mr. DUFF. No; I live in Nebraska City. I run an elevator. We have a line of 30 elevators in the country—in Nebraska and Kansas.

Senator MCNARY. I take it that you have read the provisions of this bill. Is that correct?

Mr. DUFF. Yes, sir. Of course, we are interested that the option part be not taken away from us—the hedging proposition.

Senator MCNARY. Do you object to the resolutions in respect to the hedging as covered by this bill?

Mr. DUFF. We do not want to curtail——

Senator MCNARY (interposing). Are you in favor of this bill or are you against it, or are there certain provisions that you want modified or omitted from the final draft of the bill? That is what I want to know, something concrete that we will know what to work upon, from your testimony.

Mr. DUFF. Just so the trade is not curtailed.

Senator MCNARY. Have you read the bill?

Mr. DUFF. Yes, sir.

Senator MCNARY. What suggestions have you to make in regard to it?

Mr. DUFF. Well, I do not know of any suggestions I want to make on that.

Senator MCNARY. Are you satisfied with it?

The CHAIRMAN. Would the bill hurt your business?

Mr. DUFF. It would.

The CHAIRMAN. Explain just how?

Senator MCNARY. If I may be pardoned, there has been some objection to subdivision (b) of section 4, on page 3, as being somewhat too drastic. I am simply calling your attention to that.

Mr. DUFF. What page is that?

Senator MCNARY. Subdivision (b) of section 4, page 3, lines 4 to 14, inclusive.

Mr. DUFF. That is about the keeping of the records?

Senator MCNARY. Yes, sir.

Mr. DUFF. That would not affect us.

Senator MCNARY. Attention has been called to subdivision (b) of section 5, on page 3, as being too drastic.

Mr. DUFF. That is from the standpoint of the exchange itself.

Senator MCNARY. Are you affected by that?

Mr. DUFF. No; that would not affect us.

Senator MCNARY. The other notation I have is as to section 8, on page 7. The same objection is pointed out as to that section as to the other two that I have mentioned.

Mr. DUFF. Section 8?

Senator MCNARY. Page 7.

Mr. DUFF. No; there is nothing there that would affect our business if the market was kept open and was broad enough to handle our orders promptly.

Senator MCNARY. What is there in here covering this general subject of hedging that in any way would curtail or hamper or work injuriously to your business?

Mr. DUFF. Well, I do not know that there is anything right on that now that I can recall.

Senator KENYON. That leads me to ask how is your business carried on. Suppose a farmer has a hundred acres of wheat and he comes to you. Do you make contracts with him?

Mr. DUFF. Yes, sir.

Senator KENYON. Would you make a contract, for instance, for September 1, if he would come to you now?

Mr. DUFF. No; we do not like to do that. We talk this way: When they have corn ready to deliver or thrash we buy it. We do not like to make it too far ahead. In some sections of the country they do, such as in Illinois.

Senator KENYON. You make a contract with the farmer now to deliver at a certain time?

Mr. DUFF. You see he does not know what he is going to have to deliver.

Senator KENYON. But suppose he has 100 acres of wheat and contracts to deliver 5,000 bushels. Would you make that kind of a contract with him?

Mr. DUFF. No; not unless he was a very strong farmer financially and willing to sign contracts, and in case he could not deliver the amount of the grain contracted for and the market would go up, he would pay us the difference, which we would have to do if we sold it.

Senator KENDRICK. What is done where a contract of that kind is entered into? If you were to make that kind of a contract, would you then wire to Chicago or somewhere to protect against that?

Mr. DUFF. Yes; we would sell it and we would have to deliver the 5,000 bushels exactly, if we sold regardless of which way the market went. If it was a July shipment, we would have to pay that penalty.

Senator KENYON. Do you think that there ought to be any selling of a farmer's crop before it is produced?

Mr. DUFF. I have always been against that, because they do not know what they will have to sell.

Senator KENYON. It is done right along, is it not?

Mr. DUFF. Well, that is because they want to take that chance.

Senator KENYON. As I understand it, in your business you do not do that?

Mr. DUFF. No; we are strictly a cash firm, and if a man tries to sell something and we do not know what he is going to have, and he does not know how many bushels of wheat he is going to have on the 1st of July——

Senator KENYON. I would like to get your idea about this: It was reported—I do not know whether it has been in evidence—but the agents of the British Government came here and sold large quantities, on the board of trade, of wheat that they did not have. Would such a thing as that be possible, and then after battering down the price to go out and buy it again?

Mr. DUFF. You mean sell that option on the Chicago Board of Trade? That could be done.

Senator KENYON. Do you know whether that was done?

Mr. DUFF. No; not to my knowledge. You see, we are not located in a terminal market.

Senator KENYON. I see, but I thought by being familiar with the business you might have heard of it. Those are ways in which the farmer can be affected in the present situation.

Mr. DUFF. By people overselling?

Senator KENYON. Yes.

Mr. DUFF. Well, it would have to be bought back. That contract has to be closed; where they sell they have to buy it back. It is a matter of judgment.

The CHAIRMAN. Well, that is where they sell and they do not have any wheat and they do not expect to get any. Does that benefit anybody?

Mr. DUFF. Well, that is where it comes in. Somebody will buy this corn I mentioned, or wheat or grain, that we are willing to sell.

The CHAIRMAN. No; but I am speaking now, for instance, of the thing that Senator Kenyon points to when he referred to the British Government. Let us exclude that, but take an imaginary person, so that we will not be criticized, but use it only for illustration. Somebody sells a whole lot of wheat, 100,000 bushels of wheat——

Mr. DUFF. Yes.

The CHAIRMAN. He does not have any wheat; he never expects to get any wheat; he never expects to make any delivery. That goes on, as I understand it, on the board of trade. Now, in your judgment, is that a good practice, or should that be prohibited by law, if possible?

Mr. DUFF. No; I can not see it that way. He has to buy that wheat back some time. He has sold something on the Chicago Board of Trade, and that has to be bought back on that exchange.

Senator KENYON. He has sold something that he has not got, and buys back something he has not got, and no one else has got.

The CHAIRMAN. He buys back something that he does not get, and what he does is to pay the difference in the market price.

Mr. DUFF. He makes the market decline at the time when he sells, but how about when he buys it back on an advanced market?

Senator KENYON. When it goes the other way. If he is powerful enough, he can manipulate the buying and selling of that which he has not got.

Mr. DUFF. The market is pretty big.

The CHAIRMAN. Assuming now for the purpose of the question that he does buy it back. He buys it from somebody else, like myself, who does not have any wheat, and he does not give him any wheat, and they sell that by paying the difference in price. In one case he loses, and in the other case he may gain, but what good does that do the producer or the consumer? Is that just purely and entirely a bet or gamble?

Mr. DUFF. By having those kinds of people in the market it makes a broad market, so that when we come along with actual grain, when anybody comes along, there is somebody to buy it.

Senator KENYON. Yes; buying and selling what does not exist in any quantity that a man desires is going to affect the price of the actual product.

Mr. DUFF. Well, there are fluctuations every day there.

Senator KENYON. Mr. Chairman, I would like to ask the witness this question: All of your contracts include an understanding that the grain may be delivered; is not that true?

Mr. DUFF. Delivered if you hold it until the month of July.

Senator KENDRICK. Until the time——

Mr. DUFF. Say he is buying July corn. The party that sells that to him has the month of July in which to deliver that corn to him.

Senator KENDRICK. And it is optional to the man who sells it to deliver it, if he chooses to do so?

Mr. DUFF. That has to be delivered, or the trade has to be closed.

The CHAIRMAN. Now, let us take a case where he can not deliver. Suppose I sell you 10,000 bushels of corn and do not deliver it, as a matter of fact. What happens?

Mr. DUFF. Then it goes to the end of the month.

The CHAIRMAN. Yes.

Mr. DUFF. And you have not fulfilled your contract.

The CHAIRMAN. Yes; exactly.

Mr. DUFF. That is taken up by the board, a committee, who decide what price basis we shall settle on.

The CHAIRMAN. Let us pursue that transaction to the finish. You keep saying, Mr. Duff, it has got to be delivered. But suppose I do not deliver it.

Mr. DUFF. Then there is a penalty attached.

The CHAIRMAN. Exactly; that is what I wanted to get at.

Mr. DUFF. I bought the corn, and I wanted the corn.

The CHAIRMAN. Yes.

Mr. DUFF. Say I wanted the corn in July, and you can not fulfill your contract.

The CHAIRMAN. Yes.

Mr. DUFF. By delivering it to me.

The CHAIRMAN. Yes.

Mr. DUFF. On the last of the month, at the end of July, it is taken before a committee, as I understand it, of the Chicago Board of Trade, and they decide what you shall pay me. It is generally based on the cash value of the corn about that time.

The CHAIRMAN. In other words, if I sell you that corn now, which I do not have, for $1 a bushel, to be delivered on the 1st of July——

Mr. DUFF. Pardon me—during the month of July.

The CHAIRMAN. All right; during the month of July; and then the price goes up, and during the month of July the corn is worth on the market $1.10 a bushel.

Mr. DUFF. Yes.

The CHAIRMAN. I have to pay you 10 cents a bushel?

Mr. DUFF. Yes; it protects me, so that I can go and buy that corn or have cash corn. That is what it is; it is that penalty.

The CHAIRMAN. Exactly. Now, take another example. Take the same corn. I do not have any corn, and never expect to have. You buy the corn. You do not want any corn; you never get any; you would not know what to do with it if I delivered it to you. You

know I am never going to deliver it to you, and we make our transaction. Are there not thousands and thousands of such contracts made, when both parties know that the corn is not going to be delivered?

Mr. DUFF. There are quite a number of them; but we do not know but what another firm like ourselves are selling actual corn.

The CHAIRMAN. No; we do not know that, and we do not know when they make that contract whether I or you are going to lose money.

Mr. DUFF. Yes.

The CHAIRMAN. Either one may gain, or either one may lose.

Mr. DUFF. If we have the option, as the option advances we lost on that option; but we get that much more for our cash, and that brings it back to the original sale.

The CHAIRMAN. But you do not mean to say that everything is just the same as if you never had made that contract?

Mr. DUFF. No; but we are protected from the fluctuations of the market.

The CHAIRMAN. Yes; but you are coupling that up with somebody that has the actual stuff, which is a different illustration. I was taking a case, and there are thousands of them, where there never was any corn, there never was intended to be any corn, for the buyer or the seller. Now, what I want to get you to explain is whether that is a proper condition to exist in a foodstuff, without regard to whether it goes up or goes down.

Mr. DUFF. But we have to have those speculators, who are willing to take chances, to make a broad market, so that we can sell our actual stuff.

The CHAIRMAN. Could you not sell your actual stuff if there was not any gambling in the same kind of stuff?

Mr. DUFF. If there was not anybody to buy it——

The CHAIRMAN. Oh, we understand that; we have to eat.

Mr. DUFF. I can not see how, unless we have speculation in the market that will take these chances that we won't take as cash handlers.

The CHAIRMAN. Now, is that kind of business, gambling business, necessary in the grain trade and not necessary in the ordinary business of life? Why do you not have to have gambling in everything else in order to make the market just right?

Mr. DUFF. Well, the grain business is handled on a closer margin than other lines of business. They do not have to protect themselves as soon as they buy. If we would have to hold that 25,000 bushels of corn, we would have to have a larger profit.

The CHAIRMAN. Then, according to your idea, this would be a good thing if it applied to everything?

Mr. DUFF. I am not in a position now to say how it would work on other commodities.

Senator KENYON. As to shoes and clothing and things of that kind.

Mr. DUFF. I hardly think it would work on that line.

Senator SMITH. I want to see if I get your idea. You are a spot dealer in wheat?

Mr. DUFF. We buy our grain direct from the farmers.

Senator SMITH. Now, you get an order from a miller first for so much grain, do you not?

Mr. DUFF. Yes; at times.

Senator SMITH. All right; you have not any grain yet; you have not any actual grain, but you get an order for so many thousands of bushels of a given grain. Now, you figure what your profit would be for that transaction. You close a trade with him to deliver 60 or 90 days ahead, or 30 days ahead. You then go on the board of trade and sell a contract to protect that wheat. Is that the way you work it?

Mr. DUFF. No; we never have done it that way.

Senator SMITH. Then how do you handle it?

Mr. DUFF. We generally have cash on hand when we sell it, and if we sell a miller so much wheat we have it hedged in Chicago.

Senator SMITH. That is what I am getting at now. You have not the wheat, but you are going to buy, and in order to protect yourself you hedge on the market.

Mr. DUFF. No; we have never done that kind of business.

Senator SMITH. Then what are you going to hedge?

Mr. DUFF. We never sell unless we have it. I guess I explained that before you came in, Senator.

The CHAIRMAN. He only buys. He does not sell anything unless he has the actual stuff there.

Senator SMITH. Then, if he has the actual stuff, he does not need to hedge. Why should he need to hedge if he has the actual stuff?

The CHAIRMAN. He has not said he would hedge that. When he used the word "hedge," he meant when he made the purchase.

Senator SMITH. Oh.

The CHAIRMAN. If I am not correct in that, correct me, Mr. Duff.

Mr. DUFF. Yes; we can sell an option much quicker than we can the cash. You speak of this miller. We make the purchase first from the farmer, and we sell in Chicago. Then we have a chance to work with this miller, and we get into communication with him and sell him this wheat on the basis of the option, so much over or so much under; it depends on where he is located, according to the freight rates. As soon as he buys that wheat we either tell him to buy in an option, but figure the price so much over or under, or we will buy it in ourselves.

The CHAIRMAN. Now, Mr. Duff, referring again to the bill. This bill undertakes to admit cooperative organizations of farmers to membership in the boards of trade. Have you any objection to that?

Mr. DUFF. Well, the only objection I have to that is that the exchanges have always maintained a bona fide commission, according to rules, which should be charged all dealers or members, and the cooperative people, the way I understand they are organized, divide that commission among their members. In other words, it is what we call a "split commission."

The CHAIRMAN. Yes.

Mr. DUFF. They would have the advantage over us in dealing on the Chicago Board of Trade, wouldn't they?

Senator KENDRICK. Well, it would be much the same as if they were confined to their own membership. It would be much the same as a firm that supplies a large number of members, where they would divide the profits amongst themselves.

Mr. DUFF. As I understand it, they prorate the profit according to the number of bushels that each member delivers to be sold on the Chicago board.

The CHAIRMAN. Do you think that is objectionable?

Mr. DUFF. I do. I think it is detrimental to the exchanges.

The CHAIRMAN. That does not have any effect on you or on your business?

Mr. DUFF. No; it does not have any effect on our business.

The CHAIRMAN. Can you tell the committee anything that there is in this bill that does have a bad effect on you in your business?

Mr. DUFF. That would be the only thing, that it is going to hurt the Chicago exchange. The different exchanges never have rules that show favoritism to different members. They all have to be alike.

Senator CAPPER. Are there any rules of that kind in this bill?

Mr. DUFF. These cooperative associations divide their profits in commissions.

Senator KENDRICK. Some anxiety has been expressed by witnesses, I believe, as to having the power vested in one man to suspend the operations of the exchanges. Have you any suggestions to make on that point?

Mr. DUFF. Well, if there is anything like that put in the bill, I should think there should be three men, because if there is any rumor or anything gets out in the news that a certain party is going to close a certain exchange, it generally affects the market. It may be that it is temporary, but it is a bad effect.

Senator KENDRICK. It would do a great deal of damage in a short time?

Mr. DUFF. How is that?

Senator KENDRICK. I say it would do a great deal of damage in a very short time?

Mr. DUFF. Yes; it might possibly cause a great deal of damage.

Senator CAPPER. Is not that one of the troubles about this present situation, that rumors have a whole lot to do with the fixing of prices the producer has to take for his grain?

Mr. DUFF. Well, the rumors and the news of the day in the different world markets affect us.

Senator CAPPER. In Nebraska City do you have one of these blackboard concerns?

Mr. DUFF. We have a wire; yes.

Senator CAPPER. You make use of that yourselves?

Mr. DUFF. Yes; we have a local branch wire and post notices.

Senator CAPPER. This blackboard house, of course, is public?

Mr. DUFF. Yes; the different grain dealers and farmers all call us up and get the market from time to time.

Senator CAPPER. Is the business transacted through this blackboard restricted to the legitimate grain trade?

Mr. DUFF. No; anybody that wants to buy or sell, we will take the order and transfer it for them by telegraph.

Senator CAPPER. What proportion of the business transacted in this blackboard house would you think was actually on the legitimate basis, by the actual grain trade?

Mr. DUFF. Well, in our case it is more than half, I should judge.

Senator CAPPER. That is, more than half of it is pure gambling?

Mr. DUFF. No; it is pure grain deals. The grain dealers give us the orders. There are several grain firms in Nebraska City. Then, the different country elevators in the country towns tributary to Nebraska City——

Senator CAPPER. But a great many of them do come in who have no thought of actually purchasing grain?

Mr. DUFF. Yes; there are some that come in there with that idea.

The CHAIRMAN. Is there anything else that you can think of, Mr. Duff?

Mr. DUFF. No; I think of nothing else.

The CHAIRMAN. Let us have the next witness?

Mr. DUFF. I thank you, gentlemen.

The CHAIRMAN. All right, Mr. Duff, we are much obliged to you.

STATEMENT OF MR. J. C. MURRAY, REPRESENTING THE QUAKER OATS CO., OF CHICAGO, ILL.

The CHAIRMAN. You will please state your full name for the record.

Mr. MURRAY. J. C. Murray, representing the Quaker Oats Co., of Chicago. I am manager of the grain department.

The CHAIRMAN. All right. Mr. Murray, you may just go ahead and make your statement in your own way.

Mr. MURRAY. Mr. Chairman, I am appearing to urge upon your committee the great care that is necessary in legislation affecting the system of hedging from the standpoint of the milling industry.

Our business takes in practically all of the cereals grown—wheat, corn, oats, rye, barley, rice, and kaffir, almost every cereal which is produced in this country. We use the hedging markets very largely as a means of avoiding speculation.

Our profits are made through our ability to sell and merchandise the products of the cereals without speculation, on a milling margin, and any legislation which is calculated to limit the liquidity, so called, of the hedging market would be an important factor in our business.

We are opposed to this bill as it stands, because of the insertion of governmental or departmental supervision that would, in our judgment, limit the functions of the present marketing system.

There are some details in this bill which I would like to make clearer, but we wish to go on record as opposing governmental interference, if it may be so called, with legitimate business. That is our first objection.

Taking up the bill, I will refer to some of the provisions.

In the matter of documentary information that is required by the Secretary, paragraph (*b*) of section 5 states:

"When the governing board thereof provides for the making and filing of a record and reports, in accordance with the rules and regulations," etc., "showing the details and terms of all transactions entered into by the board or the members thereof, either in cash grain or for future delivery, and which record shall at all times be open to the inspection of any representative of the United States Department of Agriculture and the United States Department of Justice," etc.

I do not believe the authors of the bill have any idea of the amount of detail that that paragraph covers.

For instance, we have a mill in central Iowa with a capacity of 125,000 bushels of grain a day. A very small percentage of that grain ever sees a terminal market. Most of it is bought from grain dealers, farmers' elevators, and such regular primary sources of supply, and shipped into those mills. This document, as we understand it, would mean that we would have to make not only a copy of the confirmation of every carload purchased, but we would also have to report the time of delivery and final termination of each individual contract, to the secretary or the Department of Agriculture.

Now, there are other mills in the country who are similarly situated, and you can imagine the tremendous amount of work that would be involved. All of that work would be coming here, and would be practically unnecessary.

A further instance in this paragraph may be the question of the country elevators. We have operated as many as 42 of them, and we are now running about 36, in Iowa and South Dakota. We buy grain from the farmers at those stations. In the season when the grain is running, when the farmers are marketing their crops, we buy wagon loads at the elevators. We will contract with the farmers for the amount and delivery that they think convenient. That may be 10, 20, or 30 days, according to the farmer's ability to deliver, and, as I understand it, this would contemplate that we would have to make an individual confirmation for every one of those wagon loads, and not only to report when the contract was made, but also make a further report when the contract was finally terminated, delivered or discharged.

It seems to me that that paragraph should be eliminated.

The CHAIRMAN. You are assuming that your operation would constitute a board of trade, are you not?

Mr. MURRAY. No; I am not. I am assuming that as a member of the board of trade we are subject to this: "When the governing board thereof provides for the making and filing of a record and report—" that as members of a board we would have to do that.

The CHAIRMAN. Are you members of a board?

Mr. MURRAY. We are members of several exchanges in this country and Canada—Chicago, Minneapolis, Winnipeg, Buffalo——

The CHAIRMAN. Well, these particular dealers that you have just told us about are not on any of these boards of trade?

Mr. MURRAY. No; but this says: "* * * entered into by the board or the members thereof, either in cash grain or for future delivery," and it does not limit it to board of trade transactions. We, as members of the board must furnish these reports.

The CHAIRMAN. I had not gotten that idea from section 5. You may be right. My idea was that it applied to boards of trade and applied only to operations on those boards of trade. As I understand your description of your business, you do not get any of this grain through any operation of the board of trade?

Mr. MURRAY. Well, we use the board of trade a great deal. I will come to that later, and I am just referring to this particular paragraph as it relates to our cash grain purchases from day to day, from outside of the board of trade.

The CHAIRMAN. Yes.

Mr. MURRAY. We also buy on the board of trade through our representatives, in addition to what we buy from the country direct.

The CHAIRMAN. Of course, if you operated on the board of trade, it would apply to you.

Mr. MURRAY. Absolutely.

The CHAIRMAN. Do you think it applies to you when you operate outside of the board of trade?

Mr. MURRAY. Outside of the board of trade; yes. I think the bill so provides, but possibly I may be mistaken. I am simply bringing that up for your consideration, as a matter of record.

The CHAIRMAN. I am glad you brought that out, although I had not any such idea, and I do not believe it is subject to that construction. In other words, if your construction is right, if I should buy a carload of wheat from an elevator, I would have to report?

Mr. MURRAY. If you were a member of a board of trade you would, because, under this clause, as I read it, it is provided:

> When the governing board thereof provides for the making and filing of a record and reports, in accordance with the rules and regulations and in such manner and form as may be prescribed by the Secretary of Agriculture showing the details and terms of all transactions entered into by the board or the members thereof, either in cash grain or for future delivery.

The CHAIRMAN. Now, don't you think that that means only those operations that take place on the board of trade?

Mr. MURRAY. I could not read it that way without some further change in that paragraph. It would seem to me to include every trade that went through our office in cash. As members of the board of trade, we would be under obligation, if the Secretary called for it, to furnish a copy of the confirmation.

The CHAIRMAN. You have a mill in central Iowa. Where is that mill located?

Mr. MURRAY. In Cedar Rapids.

The CHAIRMAN. Well, suppose at Cedar Rapids you buy a wagon load of wheat from a farmer; he takes it to your mill and you grind it.

Mr. MURRAY. Yes.

The CHAIRMAN. It is your contention that, under this bill, you would have to report that transaction?

Mr. MURRAY. Absolutely if it were demanded; yes, sir.

Senator NORBECK. You would have to furnish it if the Secretary demanded it?

Mr. MURRAY. Yes. It says, "That is prescribed by the Secretary." It gives the department that power to simply put us to the disadvantage of actually having to report, and it puts us to the expense of having to report.

Senator NORBECK. Do you not think that the danger of that would be very remote?

Mr. MURRAY. I am not sure as to that, whether you can put into effect a rule that will apply in part and not to all. That is a question.

The CHAIRMAN. I do not think it contemplates that at all. That is only my idea. I may be wrong and you may be right.

Mr. MURRAY. Now, another feature that I may be equally astray on is that this bill, as I read it, provides that any——

The CHAIRMAN. What are you reading now?

Mr. MURRAY. Let me see if I can find the paragraph. It is the beginning of section 6:

> That any board of trade desiring to be designated a "contract market" shall make application to the Secretary of Agriculture for such designation.

And further down, in line 14:

The Secretary of Agriculture is authorized to suspend for a period not to exceed six months, or to revoke the designation of any board of trade as a "contract market" upon a showing that such board of trade has failed or is failing to comply with the above requirements, or is not enforcing its rules of government made a condition of its designation as set forth in section 5.

The question is: What is done with open contracts between members of the board of trade, made in good faith under the rules and regulations of the contract market, when the license of that market has been revoked?

We in our business find it necessary at times to buy to cover our requirements ahead for several months. These contracts made between members, through commission houses on the board, are protected under the rules of the board by margins. If they are against the other party the commission house is given a margin so that the final fulfillment of it is unquestioned.

If the designation "contract market" is revoked and that board loses its power, where do we, as innocent members, parties to contracts made on that board, find our means of adjusting when the time comes?

The CHAIRMAN. You mean that if you had an unfulfilled contract and the board's license was revoked, what would happen to you?

Mr. MURRAY. What would happen to us under this act?

The CHAIRMAN. Yes.

Mr. MURRAY. As I understand it, the operation of the market may be suspended, its rules and regulations are of no effect because of the decision of the Department of Agriculture or the Secretary.

The CHAIRMAN. Well, have you an answer to your question? Do you want to give us your idea of it?

Mr. MURRAY. My fear is that we would have no means excepting the courts of protecting those contracts; that in case any party on the other side wished to default we would have no protection in that institution, because it is out of business.

The CHAIRMAN. Well, would not that give you sufficient protection?

Mr. MURRAY. I am not sure that it would. You do not have to go to that extreme to-day. The rules and regulations of the board under which we have operated for a great many years take care of those things for us. As I see it, this act takes that protection away from us.

The CHAIRMAN. Well, that is in case the Secretary takes action.

Mr. MURRAY. Yes.

The CHAIRMAN. And withdraws his designation?

Mr. MURRAY. Yes.

Senator NORBECK. What did you suggest, that not only further operations of the board be suspended, but that it be permitted to exist until it closed all contracts?

Mr. MURRAY. I think that would be necessary, some provision of that kind, under any circumstances would be absolutely necessary.

The CHAIRMAN. That might be a very valuable suggestion to the committee, but suppose no change were made and it was left just as it is. That contract that you had made would be like any other contract that I should make now, outside of a board of trade. If somebody defaults on it I would have to resort to the methods pro-

vided for everybody else; I would have to go into court to get my remedy. Why should not you?

Mr. MURRAY. My point, Senator, is that it has been furnished us and this might take it away. At the present time we do not have recourse to the courts. It is settled for us through the means of arbitration committees, and regulations under which boards of trade do business.

The CHAIRMAN. In other words, as long as the board of trade is operating, and there is some dispute in regard to the fulfillment of contracts, they settle it with you, through the instrumentality of their board?

Mr. MURRAY. The means are provided.

The CHAIRMAN. Yes; a sort of arbitration, you might call it.

Mr. MURRAY. Yes.

The CHAIRMAN. Even now, if anybody did not want to abide by that, he would have to enter the courts. It would have no legal authority to enforce a contract.

Mr. MURRAY. Well, most boards have a very wide charter for disciplining their members on failure to fulfill contracts.

The CHAIRMAN. If they should fine me and I did not pay it, what would happen then?

Mr. MURRAY. They would expel you from the board.

The CHAIRMAN. Still they would not have enforced the contract?

Mr. MURRAY. No.

The CHAIRMAN. The point I am getting at is that if somebody does not want to fulfill a contract there is no place on earth to go except to the courts?

Mr. MURRAY. No; the courts are final, but we have not had to go to that extent in the past.

The CHAIRMAN. In other words, if a board of trade where there were individual contracts on hand were suspended, then those fellows interested in those contracts would be just like a common, ordinary citizen; their remedy would be in a court of law?

Mr. MURRAY. It would seem so.

The CHAIRMAN. Well, would that be any great injustice?

Mr. MURRAY. That would be a great disadvantage to the trading element on the board of trade, because they come directly under the rules and regulations of the board. They are protected so thoroughly through the margin calling system that we rarely have defaults, and, consequently, a man can work very much closer with the knowledge that his contract is protected absolutely from day to day than if he has the feeling that he must himself secure that protection and depend on the courts to make good in case the protection he is able to get himself or the credit he has extended is unwarranted.

The CHAIRMAN. All right. Now, is there any other criticism you have to make?

Mr. MURRAY. I would like to tell you a little about our business, Senator, in order that you might realize, or it might help you in summing up the value of the hedging system.

As I stated before, we mill in our plant practically all of the cereals produced in this country. We have considerable elevator space which, at times, we will fill with grain, at the time when the farmers are selling it.

As explained by Mr. Barnes yesterday the farmers sell a very large proportion of their crop during the first three months. We, in taking care of our supply for the year, will fill our elevators during the time that that grain is running, and hedge it in the future markets.

The CHAIRMAN. Now, so as to make it a little plainer, you mean, when you say you hedge it, you sell the same amount of grain?

Mr. MURRAY. In some future market.

The CHAIRMAN. Yes.

Mr. MURRAY. For May delivery, for instance.

The CHAIRMAN. Yes.

Mr. MURRAY. Or December delivery.

The CHAIRMAN. Yes. All right.

Mr. MURRAY. In that way we are enabled to fill those elevators and carry a stock of grain on which we can call for milling at any time that we need it, and avoid any risk to what may happen, not only to the crops in this country, but to the crops in any part of the world, during the time we have that grain in our possession.

Senator NORBECK. Mr. Chairman, I just want to ask this question.

The CHAIRMAN. All right, Senator.

Senator NORBECK. About what is the storage capacity of your concern?

Mr. MURRAY. Well, in our mill at Cedar Rapids, which is just one unit, about 4,000,000 bushels. In addition to that we have 36 country elevators with a carrying capacity of 800,000 bushels. We have other mills, at Akron, Ohio, Fort Dodge, Iowa, Memphis, Tenn., and other points, where we have a storage capacity of 1,500,000 bushels, roughly, in addition. Our capacity is probably 7,000,000 bushels of grain carrying.

The CHAIRMAN. Does this bill prohibit you from doing jusy what you say you have been doing, from hedging that stored grain?

Mr. MURRAY. Any legislation, Mr. Senator, which affects liquidity of the hedging market is detrimental to our interests. That is our objection to the bill, Anything which tends to limit the flexibility of the market is an expense to the cash grain handler, large or small.

Senator NORBECK. Your position, then, is that any attempted legislation or regulation would not meet with your approval?

Mr. MURRAY. My thought is that the business of the boards as a whole is legitimate.

Senator NORBECK. And properly conducted?

Mr. MURRAY. When properly conducted.

Senator NORBECK. No; and properly conducted at this time?

Mr. MURRAY. And properly conducted under the way the business has been conducted for years in this country.

Senator NORBECK. You see nothing about it that can be improved upon by legislation or Government regulation?

Mr. MURRAY. I believe that the machinery of the boards is, at times, used in such a way as to cause disadvantage to members of the board and to bring discredit on the boards. I do not think there is any question in my mind as to that.

Senator NORBECK. What would you suggest in the handling of that—to let it alone or attempt to remedy it by law?

Mr. MURRAY. I would say, if you wish to break the so-called manipulation, much of which may be, when you get to it, imaginary rather

than real, but there is some, that you should drive at the party is who offending, and not at the great institutions which are carrying on the business of the country.

The CHAIRMAN. Now, how would you do that?

Mr. MURRAY. Through your Department of Justice, through a law, if necessary, that would catch people who would attempt to, as you outlined a few minutes ago, manipulate the market by selling tremendous quantities or by buying tremendous quantities. One is just as bad as the other from the standpoint of the milling business.

Senator NORBECK. You do not like to be thrown into the courts. You do not like to have things adjusted in that way, but, on the other hand, you suggest that we rely on the courts entirely.

Mr. MURRAY. It is a question in my mind whether you should ask a business institution, carrying on business under rules and regulations that are entirely lawful——

The CHAIRMAN. Now, if we do that, we have, by some legislation, to define what is wrong and provide punishment for it. What this committee is trying to do is to get at the evil and prevent it, if possible. Your suggestion, to be valuable to the committee, ought to be more concrete.

Mr. MURRAY. I should say, find the evil.

The CHAIRMAN. Now, how are we going to find it?

Senator KENYON. What is the evil? You tell us.

Mr. MURRAY. The evil as outlined by the Senator. It is the reflection of selling or buying by some large interest which temporarily affects the market.

The CHAIRMAN. If we prohibit that we have prevented you from hedging, have we not?

Mr. MURRAY. Not entirely; no, sir.

The CHAIRMAN. The point is how are we going to get at the bad features and prohibit them and still permit hedging. I think that is what the committee wants to do. You want to be allowed to hedge, but would be glad to see these evils done away with. The question is how we can retain the one and do away with the other. How can you tell the difference between a hedge and a gamble? How can you tell whether any sale or purchase is a hedge or is a gamble?

Mr. MURRAY. I think that is very difficult at the time of the operation.

The CHAIRMAN. I think so, too.

Senator KENYON. Can not the managers tell that?

Mr. MURRAY. Well, there are many published statements as to what is being done from day to day, but they are not dependable as to the source of the transactions.

The CHAIRMAN. Now, if grain men like you can not tell how to divide the sheep from the goats, how are men who are not experts going to tell? We would like to have you tell us. You have pointed out what you think is wrong in the bill, as it affects you, yet you can see that there are some things that ought to be corrected. Now, give us the light and tell us how you can do that.

Mr. MURRAY. I can not tell you just how, other than that you have your power to make laws which will reach the law breakers.

The CHAIRMAN. Yes; but when we start to do one thing, men like you come in and say, "You will hurt us by this operation; you have

us in here with these law breakers and we want to keep on doing business."

Mr. MURRAY. Yes, Mr. Senator; but I am telling you how it will affect our business.

The CHAIRMAN. Yes. Now, we do not want to hurt any legitimate business. That can be accepted as a foregone conclusion. We are trying to get a method by which we will get the wrongdoer and let the honest dealer escape, and we are calling on you for information.

Senator KENYON. Do you think you could make buying and selling for the purpose of manipulating the market a criminal thing?

Mr. MURRAY. As I understand it, it is to a certain extent criminal now, if you can prove——

The CHAIRMAN. You must understand that we have to make a law which is to be general. If we simply pass a law and state that all those that are gambling shall be sent to the penitentiary and stop at that, you are afraid that it would catch you in your hedging, because that is the same kind of a deal on the face of it as the gambler makes.

Senator KENDRICK. Would it not be a question whether they had been gambling or hedging?

The CHAIRMAN. Yes; a prosecutor, if he was going to enforce the law, would have to have some way, unless he commenced a general prosecution of everybody, which would be complained of at once, with justification, I think, of knowing in advance of the time when he got the fellow on trial whether he had a sheep or a goat.

Mr. MURRAY. That is the problem with the exchanges just the same as the one you are confronted with in the case of the abuses, so called. My thought is, Mr. Senator, as I explained before, that there is much less of what is termed manipulation than is reported or claimed.

The CHAIRMAN. Yes; that may be. I do not want to argue that with you, as to whether that is true or not. The facts are that you admit, and I think all the others do, as far as I know, that there is something wrong about this business.

Mr. MURRAY. The machinery of the business may be abused by outsiders or members, but by outsiders with equal facility.

Senator CAPPER. Under the present situation, on the Chicago Board of Trade is it possible for the Armour Grain Co. to sell, say, 5,000,000 bushels of wheat any day that they want to go in there, having in mind that they desire a few days later to purchase that 5,000,000 bushels of wheat at the lowest possible point and sell it at the higher price? Do you think that sort of a deal is objectionable in any way?

Mr. MURRAY. Yes; I think that there is a certain amount of business ethics against an operation of that kind, but Armour is taking his chances when he sells the wheat, you understand.

Senator CAPPER. Yes; he is taking his chances, but is he not demoralizing the market and probably working injury to the producer as well as to the grain trade?

The CHAIRMAN. I wish you would bear in mind what Senator Capper has just said. You say he is taking his chances, and nobody would object if he were to go out and take a chance that does not affect anybody else; but if, in taking that chance, he gambles and affects some legitimate operations, then he is treading on ground that he ought to be prohibited from getting on. It is not answered by saying that in that operation he is taking a chance, that maybe the

price will go the other way. In my judgment, that is no answer to it. If it is true, as Senator Capper has pointed out, that he manipulated the market, that is an unnatural cause, and whether it is up or down. it does not make any difference. Then, the legitimate man, the producer, and, at the other end of the equation, the consumer, is affected by that gambling operation. The public is entitled to protection, if there is any possible way of getting it, from that thing happening. How are we going to do that? We are not here to try to protect the gambler, but we want to protect the honest people against the operations of the gambler.

Senator KENYON. It seems to me that you are leaving out all the time the fellow who is producing this stuff, even if Mr. Armour is taking his chances. You can go down here with a gun and try to commit suicide; you may shoot at yourself and you take your chances, but if you go into a crowd of people, where you might hit some of them, they have to be protected. We are concerned about the man who is raising this stuff, as Senator Norris says.

Mr. MURRAY. Of course, the argument, as the Senator has said, is that Armour must even up his trades. He has simply sold something to somebody that he must deliver. If he does not deliver that through buying it back again, he must go out into the country and buy it back. He has made himself a buyer when he has sold something that he has not got. That is an economic question.

Senator KENYON. But he is leading down the price by that sale.

Mr. MURRAY. He is trying to.

Senator YENYON. Yes.

Mr. MURRAY. He has made the effort. Sometimes he is successful, but frequently he loses.

The CHAIRMAN. Sometimes he succeeds.

Senator CAPPER. Three times out of four he will win.

Mr. MURRAY. Well, I should not say that.

The CHAIRMAN. If he succeeds and does beat the price down, does he not injure the producer?

Mr. MURRAY. Yes; if the producer happened to sell at that time.

Senator KENYON. He may have to sell to meet his notes. As I see it, you are forcing gambling on him. He may not want to go into this gambling business, but if he is forced to sell, he is affected, in this instance, by what Mr. Armour is doing.

The CHAIRMAN. You have not answered that, in my judgment, by saying it may go the other way and the farmer may get the benefit of it. It is just as bad for a farmer to gamble as it is for me. In the general windup, if these fluctuations affect the market, whether up or down, they have done something that the people have a right to have corrected, it seems to me.

Senator KENYON. If you can force prices up in this way, what about the people who have to buy this stuff and eat it? It is not just a question between the men who are gambling.

Mr. MURRAY. If you are going into that question, let us take another item of grain, for instance, which is not traded in on the exchange—kafir corn. We handle that. The price, if I remember correctly, last June was $2.50 per hundred pounds in Kansas City. A few weeks ago it sold at 82 cents. The fluctuation was greater than in grain, that is traded in on the exchanges.

Senator KENYON. What sent it down?

Mr. MURRAY. Lack of demand. Excess of supply over demand for it. It has gone back in the last three weeks from 25 cents to 40 cents. It is now about $1.20.

The CHAIRMAN. That brings another question to my mind, at least; that is something that is not operated in on the boards of trade——

Mr. MURRAY. That is not traded on in the futures at all.

The CHAIRMAN. Is not this true, that if, through any operation, natural or otherwise, of the board of trade, prices are manipulated of things that are traded in on the board of trade, it will affect the market for similar articles that are not traded in on the board of trade?

Mr. MURRAY. Those that meet in competition; yes.

The CHAIRMAN. Yes.

Mr. MURRAY. Yes; if it were possible to manipulate permanently.

The CHAIRMAN. If the price of white bread goes too high, the people are driven to the eating of rye bread?

Mr. MURRAY. Over a period long enough so that one would be affected by the other, but not by that simple operation of buying or selling a large quantity. That would not have any effect on a side issue, such as kafir corn, buckwheat, rice, or something of that kind, where the market might be influenced 1 or 2 cents either way.

But here is another question: Rice, in May of last year, sold at 12 cents a pound. I think the last we bought cost us $0.0390.

The CHAIRMAN. How long ago was that?

Mr. MURRAY. That was last week.

Senator KENYON. And it originally sold at what?

Mr. MURRAY. Twelve cents per pound in May of last year.

Senator KENYON. And it is now 3.90?

Mr. MURRAY. It is now 3.90, and I am conservative in that. As a matter of fact, we had some bought for future delivery as low as 3 cents. I think it has sold as high as 13, but I am giving you conservative figures.

The CHAIRMAN. It is a remarkable condition, and I am not one of those people who think it would not have happened whether we had a board of trade or not, because everything is out of joint. There are thousands of cases, and it is probably not necessary to discuss them here, but the fact is that everything has gone to pieces. I saw a statement last night, for instance, that hogs, a little while ago selling for something over 20 cents——

Mr. MURRAY. Twenty-three cents, and they are now down to 8 cents.

The CHAIRMAN. They are now down to 8 cents?

Mr. MURRAY. Yes.

The CHAIRMAN. And everything else in proportion?

Mr. MURRAY. Sugar sold, I know, at 27 cents.

The CHAIRMAN. But that is not any defense of any dishonest transaction on the boards of trade.

Mr. MURRAY. No, indeed; I might say, though, that that goes to show the advantage of the speculative market to the American farmer, as compared with the farmer who does not have the advantage of a speculative market. There has been at all times during this entire period of tremendous loss or shrinkage in these other things an open market at good prices for what the farmer grows that is traded in on the exchanges.

The CHAIRMAN. I had a letter from a banker who owns a farm near a town and who had cattle on it. One of his steers died. He went out on Sunday and hired a man to go in and skin this steer. He brought the skin to town and sold it the next day and he did not get enough for the hide of that steer to pay for the man that he hired to help him skin it on Sunday. The next day he bought a pair of shoes for his wife and paid $12 for them.

Mr. MURRAY. That is very good evidence of the effect of the absence of a speculative market in hides, where somebody would have carried this hide until there was a demand for it.

The CHAIRMAN. Do you think that if we had had a law covering gambling in hides that that would not have happened?

Mr. MURRAY. You call it by a hard name. I should call the man who took the hide to-day an investor, an advantage to the country.

The CHAIRMAN. That may be; I am not calling him a gambler, but as I understand you, you say, in answer to that condition, that that condition could not exist if there was speculation in hides on a board of trade.

Mr. MURRAY. I do not maintain that; but I say the grain situation shows an entirely different one, because of the fact that there is an open market.

The CHAIRMAN. Grain has gone up somewhat——

Mr. MURRAY. No, sir; there has never been a time when you could not sell your grain for some kind of a price.

The CHAIRMAN. But the fellow found out that he had a place to sell his hide.

Mr. MURRAY. It might pay for the cost of production.

Senator CAPPER. Why should you not set up a hide and shoe pit in that situation?

Mr. MURRAY. I think that would be going to an unnecessary extreme in merchandising, but I believe, as a general proposition, an open market for the products of the country is beneficial rather than otherwise.

The CHAIRMAN. There is not anybody here complaining that there should not be an open market. Don't get that idea in mind. This committee does not want to prevent an open market.

Mr. MURRAY. No; I am simply answering the Senator's question.

The CHAIRMAN. We want to get the evils out of them, that everybody, as far as I know, admits exists.

Mr. MURRAY. Well, if such suggestions were made to the exchanges, I am not in a position to state as an officer of the exchanges as to any changes in their rules, but I believe there is an honest tendency on the part of the exchanges to eliminate, as far as possible, so-called manipulation or overtrading.

The CHAIRMAN. You think we had better let it alone and let them work it out?

Mr. MURRAY. I am opposed to this bill because of its interference with general business. I am not opposed to any legislation which will affect wrongdoers if you can segregate them and put them on record.

Senator LADD. But you would not call a speculator in grain a wrongdoer?

Mr. MURRAY. No, sir; I would not—not any more, Mr. Senator, than in real estate or any other commodity.

Mr. MURRAY. He might open up an office and go into the cash grain business next week, and how are you going to get him?

Senator KENYON. It is a hard question.

Mr. MURRAY. It is a very difficult question, but what we are trying to do is to urge upon you gentlemen to see that in any legislation you will be very careful about injuring the liquidity of this market, the power of the market to absorb quantity, because it means expense, and that expense naturally works back to the producer.

The CHAIRMAN. Now, what would you say if the law provided that the contract of any person operating on a board of trade, that the aggregate of his contracts at any one time should be limited, and fixing the time, if it should be agreed that this law is right, at a figure that would——

Mr. MURRAY. On the open limit, that would not be putting a limit on our business, but would it be fair to us and fair to the outsider? You can not make a law, as I understand it that would apply to one and not to another. Now, we frequently have an interest in grain of perhaps as much as six or seven million bushels.

Senator CAPPER. What do you mean by "an open interest"?

Mr. MURRAY. Grain under hedge or sold in product. I think we have hedges out at the moment, which is not a very active period, for 2,000,000 bushels of grain, bought in the country, in the mills and at various locations. Our standing, which would come to my attention this morning, would probably not show us 100,000 bushels long or short on the market, yet our interests in grain are about 2,000,000 bushels.

The CHAIRMAN. Well, let us see. You say you have hedges outstanding amounting to about 2,000,000 bushels?

Mr. MURRAY. Yes.

The CHAIRMAN. But that is not all to be delivered at the same time; that is not all for the same delivery, is it?

Mr. MURRAY. We do not anticipate delivering any of that.

The CHAIRMAN. No; but under your contract you could not be required——

Mr. MURRAY. That is almost entirely for July and September delivery.

The CHAIRMAN. Of course, the proposition I put up to you about the limit would not prohibit you from having more. Say the limit was 1,000,000. That would not prohibit you from having several millions at different times.

Mr. MURRAY. No.

The CHAIRMAN. But the aggregate of your contracts for a particular time would be limited to 1,000,000.

Mr. MURRAY. I should say that then we would have to stop buying grain when we had a million bushels bought.

The CHAIRMAN. Yes; if that was the limit.

Mr. MURRAY. But let me give you the other side. In buying grain from the farmers and hedging it, when you bought a million bushels of grain from the farmers in your neighborhood and hedged that quantity, then you must stop buying.

The CHAIRMAN. It depends on whether you have hedged or not; but in hedging on the Chicago market, you would sell June, July, and September, and you can put them up against

Mr. MURRAY. That does not apply, because we would want the privilege of selling in whatever month offered the best market.

The CHAIRMAN. You might sell possibly at different times, but your contracts do not all mature at the same time.

Mr. MURRAY. Let me start in this morning. We buy a million bushels of oats, as an example, and hedge it.

The CHAIRMAN. Do you ever buy a million bushels of oats in one day?

Mr. MURRAY. No; but we have bought as high as three or four hundred thousand bushels in a day, but I am just mentioning that because we have accepted 1,000,000 bushels as the standard we are talking to. We would want to sell September oats against that.

The CHAIRMAN. All right; now, go ahead on that.

Mr. MURRAY. Would you want us to stop after we had accumulated that 1,000,000 bushels this morning and not buy any more from the farmers through our country elevators and mill elevators, where we have a capacity of nearly 5,000,000 bushels?

The CHAIRMAN. No; but you say yourself that you do not buy a million bushels at one time.

Mr. MURRAY. Let us take it the other way. Now, we sell it the minute we buy it.

The CHAIRMAN. Exactly. But if you bought a million bushels this morning, and you sold a million bushels and you bought a million bushels next month and you sold a million bushels, your contracts of sale that you made last month, and which you made this month on the Chicago Board of Trade, would not mature at the same time.

Mr. MURRAY. Yes; they might.

The CHAIRMAN. Well, you would make them so that they would not, would you not?

Mr. MURRAY. Yes; but I would be at a disadvantage if you insisted that I do it.

The CHAIRMAN. If the limit were a million bushels you could not have future contracts out for sale for delivery at any specified time, contracts for more than a million, but you might have as many as you wanted to within that limit at any time. I do not know whether you understand my statement.

Mr. MURRAY. I do not get your point.

The CHAIRMAN. The question that I am trying to put to you, and which has been put to various witnesses that have been here and testified to in regard to, is this: One of the ways that has been proposed to permit men like you to hedge and to prevent gamblers like me from doing business in such a large way as to affect the market by my illegitimate deals, is to say that I shall not have for delivery at one time an open market of more than whatever the limit is.

Mr. MURRAY. Yes.

The CHAIRMAN. Now, everybody is advocating something of that kind. They are advocating it to protect men just like you. This bill provides that the Secretary of Agriculture can fix that limit. Some of the witnesses want it fixed by statute. I think Mr. Barnes was in favor of that, was he not?

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Senator CAPPER. No; I think not.

The CHAIRMAN. Wasn't he?

Mr. MURRAY. Well, I do not object to governmental supervision, because the grain business as a whole has nothing to fear from reasonable supervision.

Senator CAPPER. Well, that is what this bill attempts to do, so I understand it, to bring about a reasonable and fair degree of governmental supervision. What particular provisions in the bill do you think are contrary to that general purpose of the bill?

Mr. MURRAY. Well, I think the entire bill turns the grain business over to the control of the Department of Agriculture when it says that the exchange may, on 15 days' notice, be suspended from operation. It may be carrying 60 per cent of the hedges of the cash grain of the country. When you do that, you have placed in that man's power a very important industry.

Senator CAPPER. Of course, to have governmental supervision you have to have some discretionary authority placed in an ordinary official, and that particular provision you mention is discretionary entirely, is it not?

Mr. MURRAY. On the Secretary.

Senator CAPPER. Yes.

Mr. MURRAY. Absolutely, as I read it.

The CHAIRMAN. Now, taking subdivision (d) of section 5, that is one of the subdivisions that provide what the boards of trade must do in order to be designated by the Secretary of Agriculture as contract markets. That subdivision says:

When the governing board thereof provides for the prevention of manipulation of prices by the dealers or operators upon such board, including a reasonable limitation upon the total quantity of grain of the same kind covered by contracts unfulfilled or unsettled at any one time by or on behalf of the same person, commonly called "open trades" in speculative transactions.

Mr. MURRAY. That is it; open trades. In the first place, I would say that the Secretary would call them open trades where there is no holding of cash grain behind the sale, or no sale of product or cash grain behind the purchase.

The CHAIRMAN. In other words, you would say, construing that, that it did not apply to you at all?

Mr. MURRAY. That it did not apply to us at all. That would be my thought.

The CHAIRMAN. Yes.

Mr. MURRAY. But my objection to that paragraph is this, that the boards of trades' hedging facilities to those who are engaged in business like us, the flexibility of the market, would be limited, particularly by the introduction of a rule which says the Secretary may at any time, at his pleasure, institute a limitation.

The CHAIRMAN. Well, the Secretary would be able to put a limitation right on that transaction that I have read, because if they did not make the limitation to suit him he would not admit them, don't you see?

Mr. MURRAY. Yes.

The CHAIRMAN. If the Secretary said that you could not have these open trades under that subdivision, amounting in the aggregate to more than a million bushels, then, of course, they would have to fix it that way, or they would not be designated by the Secretary as trade markets.

Mr. MURRAY. Yes. It says, though, a reasonable limitation, and that is left in the judgment of the Secretary, I presume.

The CHAIRMAN. Yes; I presume so.

Mr. MURRAY. Now, this provides for the prevention of manipulation of prices by the dealers and operators upon such board. How about an outsider, who does not deal or operate on the board, but who simply sells his futures through a commission house or through a dozen commission houses?

The CHAIRMAN. You think, then, it would not meet the evil, if it exists?

Mr. MURRAY. It might miss the one entirely that you are going after.

The CHAIRMAN. Well, it is a certainty, as I read it, that it would apply to all contracts that were carried out or made on that board of trade, because it applies to dealers or operators. If there was a sale made on the board of trade, somebody would have to do it.

Mr. MURRAY. Yes; but let me show you what might happen. I think there are probably 200 active commission houses on the Chicago board of trade. Any man might sit down in Atlantic City and send orders to 20 of those commission houses, and one would not know anything about what the others were doing, you see, and he might accumulate a line of stuff in that way.

The CHAIRMAN. Would it be possible, then, for some outsider—suppose I had money enough to do that and I sent orders to you, and to a whole lot of other fellows——

Mr. MURRAY. You would not send them to us, because we are not in the commission business, but to commission houses; yes, sir.

The CHAIRMAN. Nobody would be able to identify me and I might run above the maximum?

Mr. MURRAY. Absolutely.

The CHAIRMAN. Is there any objection to that?

Mr. MURRAY. Yes; there is no question about that, in my mind.

The CHAIRMAN. So that I might in that way corner the market, if I had money enough?

Mr. MURRAY. If you had money enough you might easily buy all of the grain that people would sell to you.

The CHAIRMAN. Well, all the grain is for sale, is it not?

Mr. MURRAY. No; not always.

The CHAIRMAN. Isn't it?

Mr. MURRAY. No, sir.

The CHAIRMAN. I have an idea that if you paid enough for it they would sell you everything you might want.

Mr. MURRAY. Oh, if you were to pay any price.

The CHAIRMAN. Well, the market would naturally get it when I got into that kind of a deal.

Mr. MURRAY. The higher you bid the more you would get.

The CHAIRMAN. Yes. Is there anything else in connection with this bill that you would like to suggest?

Senator KENYON. I am interested in what he was saying about the limitation on hedging. Do you think that that would be reflected in the buying, and in that way would affect the farmer?

Mr. MURRAY. Oh, tremendously, tremendously.

Senator KENYON. If you could not hedge, you could not buy?

Mr. MURRAY. If we could not hedge in our business we could not buy, because we have three avenues of getting rid of the stuff or of offsetting the grain that we buy. One is to hedge it as we buy it. Another is to sell the product in the mills as we buy the grain, thereby keeping even. The third is to stand on the grain and speculate. Of the three, the latter is the one that we are always trying to avoid.

Senator KENYON. If they could not protect themselves by hedging, they would protect themselves by limiting their buying?

Mr. MURRAY. Sure; we would have to limit our stock of grain to the quantity we could sell of the product or the quantity that we could hedge. When we got those two items filled we would have to drop out of the market.

Senator KENYON. And that would lessen the market to the farmer, of course.

Mr. MURRAY. Yes, sir; and also void storage in excess of the hedging limit.

The CHAIRMAN. Now, it seems to me, to sum up your ideas, it would be this, and I am not finding fault with it—you may be right about it—that in order to protect honest men like yourself and other people in legitimate business, we have to let the gamblers alone; is not that about it?

Mr. MURRAY. I would not say that. I do not think you are through.

The CHAIRMAN. Well, if that is not it, point out to us what we can do.

Senator KENYON. You will have to be careful about the gamblers.

Mr. MURRAY. I think you have to be very careful in reaching a conclusion about the gamblers, and I must confess that I can not give you a definite solution because of the reason I have outlined. A man may be speculating to-day and he may be heavily interested in cash grain to-morrow, if he wanted to change his business.

The CHAIRMAN. Then, if you were in our places, and knowing what you do, you would not do anything?

Mr. MURRAY. No; I would not say that.

The CHAIRMAN. Then, tell us what you would do. We are trying to get some light on this.

Mr. MURRAY. I would continue in an effort to find a solution, because if there are abuses, and if the public feels that what goes on on the grain exchanges is not to the advantage of this country, then we will have to keep on working on this thing until we find some way of correcting it and finding out what the abuses are. My only suggestion is that you find out more before you make any laws.

The CHAIRMAN. Now, just how are we going to find out, and where?

Mr. MURRAY. Go to the exchanges themselves. It is there just as open to you as anything, and all of the statements that I have heard that there is anything mysterious about the grain trading business are to my mind mistaken.

The CHAIRMAN. Then, your idea would be that we should send, for instance, for the members of the Chicago Board of Trade and let them map out what we should do?

Mr. MURRAY. I do not believe they can come down here and tell you about this business so that you will have a real understanding of it.

The CHAIRMAN. Is that a slam on your ability to make things plain, or on our inability to understand things?

Mr. MURRAY. No, sir; the business is too big.

The CHAIRMAN. Then, we come back to where we were, in the circle, having not accomplished anything.

Mr. MURRAY. No; you still have the machinery of the boards of trade.

The CHAIRMAN. Suppose we learned that the members of the boards of trade were selfish and had a selfish interest in this thing.

Mr. MURRAY. Their books are open.

The CHAIRMAN. But suppose we found that while they might be honest they were unconsciously prejudiced, what would we do then?

Mr. MURRAY. The great argument, Mr. Senator, is: Is the advantage of the liquid market tantamount in this proposition, or do you want to curtail the marketing of the country in order to stamp out a certain percentage of what you believe to be manipulative transactions? We do not know what the percentage is, to start out with, and no individual on the boards knows that, but collectively it can be ascertained, possibly.

Senator CAPPER. You say the books are open. Why is it not possible to determine from the books just how much of that is manipulative and speculative business?

Mr. MURRAY. Because they have never been brought together. You see, the board of trade is not empowered to collect and give out the business of its members. In case of complaint, they can call, under the terms of membership, for a member to explain a certain transaction, but the private business of any member is his property. It does not belong to the officers of the board of trade.

Senator CAPPER. Is there any reason why the board of trade should not require each member to state whether each transaction is an actual transaction or speculative or a gambling transaction?

Mr. MURRAY. The trouble about that request is the difficulty in telling it. Who is to say? You are depending entirely on the man who makes the transaction as to what his interest in it is. Take our case. You do not know or a commission man does not know in the morning whether we are actually protecting a purchase when we sell a certain amount of stuff or not. We are under no obligation as yet to tell him.

The CHAIRMAN. And if he asked you you might tell him?

Mr. MURRAY. You might tell him the truth or not.

The CHAIRMAN. You might tell him the truth or not, just as you pleased?

Mr. MURRAY. Just as we pleased.

The CHAIRMAN. And he would not have any way of knowing whether you were telling him the truth or not?

Mr. MURRAY. Another thing: You can single out individuals by newspaper report, showing that those men should be put down because they are a menace to the country, but how are you going to get them without closing the exchange? That is a problem.

I knew of a case here the other day. A firm employing a crop expert, who has been traveling over the West, received reports of deterioration in the oats crop. He called me up and told me about it. He said, "We believe that oats are cheap enough; they ought to

be bought." Of course, the inference was that if we felt like buying oats we should give him an order. We did not do it, but he probably called up 40 investors besides ourselves. He may have taken a 50,000 order from a number of customers and he goes into the pit and buys a million or a million and a half oats on these orders and the price goes up 2 or 3 cents a bushel. Is that manipulation?

The CHAIRMAN. Do you ask the question?

Mr. MURRAY. Now, can you say that a man who would throw orders for a million and a half bushels into the pit in 15 or 20 minutes or a half an hour, one order filled right after the other, is a menace to the country?

Senator CAPPER. That has happened in times past, has it not?

Mr. MURRAY. Everything might happen, but the newspapers might say on the night of that business that some speculator was reported to be accumulating a line. It may have been the accumulation of 40 lines. That is why I can say I can tell you so little about this business here. We are only a side issue in it. We do not do any trading ourselves. We fill no commission orders. We simply protect our own business through commission houses on the board.

Then, again, another feature that I would like to bring to your attention is this: Suppose you limit the hedging facilities in this country. We have mills over in Canada. Over there we hedge on the Winnipeg market, and the same conditions apply there.

The CHAIRMAN. Are the laws the same over there?

Mr. MURRAY. The same rules and regulations, almost. They largely agree in all the exchanges. There is very little material variation.

Senator CAPPER. Do they have a clearing house up there?

Mr. MURRAY. Yes; they have a clearing house.

Senator CAPPER. A clearing house in the Chicago Board of Trade?

Mr. MURRAY. Yes. Now, prior to this tariff, wheat was interchangeable between the two countries. A man could hedge his wheat over in Winnipeg or in Chicago. Under these conditions, with the possibility of danger of interference with the market, naturally a man would confine his hedges over there. I just make that statement to remind you that we are not the only ones that are interested in this feature. It is a world proposition. It is one of the biggest things for the agriculturist that you could possibly have under consideration.

To my mind, anything like a material change in the facilities for the marketing of the grain of this country would result in an increased expense to the producer, that the present system permits of the handling of grain at the lowest rate of expense of any country in the world except Canada, that we now have a better marketing system in every respect than any other grain-producing country in the world, and our only evil, as inferred from this bill, is the possibility of an individual who feels that he temporarily is bigger than the market, trying to put it into effect. Sometimes he is wrong and sometimes he is temporarily right, but he is never far away from the actual supply and demand situation.

The CHAIRMAN. Perhaps the man who wants to corner the market is not so dangerous as the other fellow. It is the rapid fluctuation in the market that might affect it in the end.

Mr. MURRAY. There are many things.

The CHAIRMAN. But I think it is quite apparent that anything that causes rapid fluctuations in the market, other than the natural causes, ought to be guarded against if we can do it.

Mr. MURRAY. Yes; I think you are right.

The CHAIRMAN. And we should make the market just as nearly stable as possible.

Mr. MURRAY. I think you are right, but when you approach the subject you must remember that the market fluctuates very rapidly and very often because of legitimate conditions.

The CHAIRMAN. Oh, yes; that might be. We can not help that.

Mr. MURRAY. The criticism is extended just the same.

The CHAIRMAN. That may be, too, and that is only to say that sometimes criticisms are unjust.

Mr. MURRAY. Yes.

The CHAIRMAN. That may be.

Mr. MURRAY. That is it.

The CHAIRMAN. But there is not any reason why, unless word would just reach us suddenly that an immense drought or some other catastrophe of nature had occurred, that wheat should change between to-day and to-morrow 10 or 15 or 25 cents a bushel.

Mr. MURRAY. Yes; a financial disturbance.

The CHAIRMAN. Well, eliminate the financial disturbance. Suppose everything is running along in a normal condition—and that happens sometimes.

Mr. MURRAY. In the normal condition in our business we do not know to-night what problem will confront us to-morrow morning.

The CHAIRMAN. Well, I saw a telegram the other day from an elevator man giving the price, and as I remember it, it was 30 cents a bushel.

Mr. MURRAY. Yes, sir.

The CHAIRMAN. He said in that telegram that the price had fallen that much in a day through no natural cause. I did not know of any; I can not conceive of any, and his conclusion was that there was some manipulation.

Mr. MURRAY. I can not tell you, and he probably did not. Suppose the market at the time was following Chicago May, which has been very active and has been very closely congested because of the lack of supply of contract wheat in the Chicago market. Wheat has been going around Chicago all year.

The CHAIRMAN. Why?

Mr. MURRAY. Because of the continued demand for export, and at the same time the trade uses Chicago as a hedging market.

The CHAIRMAN. Well, does the fact that there is hedging in Chicago drive the wheat out of the Chicago market?

Mr. MURRAY. No; sometimes it brings it there, but this season there has been a bigger export demand than milling demand, and a great deal of wheat has gone out as fast as accumulated. We have exported very largely this year.

Now, let us assume that the exporters were long on Chicago May wheat against sales abroad as a protection until they accumulated the cash wheat. That May wheat gradually worked up until it was as high as 36 cents over July delivery, which is a "new wheat" proposition, and consequently will be affected by a considerably

heavier movement than prevails now. When May gets so high that this July wheat appears then to be the best bargain, bang goes their May wheat, and it might break the price 20 cents on a day's market, or in 15 minutes, if a man tried to sell 1,000,000 or 1,500,000 bushels of wheat on the May market.

The CHAIRMAN. Your contention is that many will sell at the same time.

Mr. MURRAY. No; not necessarily. One man would be enough.

The CHAIRMAN. One man would be enough to change that?

Mr. MURRAY. One big exporter, yes, because it is a simple matter to have contracts for 1,000,000 bushels of wheat for export.

The CHAIRMAN. Suppose it developed at this very time of which I speak that there was not any wheat bought for export, what would you say then?

Mr. MURRAY. Well, there is always some condition that brings about these things.

The CHAIRMAN. Of course, we all know that there is some cause.

Mr. MURRAY. Some mill may be long May wheat against the July sold and try to sell it, or you might have the manipulator there, but he is not the only man.

The CHAIRMAN. Nobody thinks he is the only one, but he is the fellow we want to get.

Mr. MURRAY. That is the difficulty.

The CHAIRMAN. You will concede, will you not, that he is the fellow that sometimes causes these violent fluctuations?

Mr. MURRAY. Yes. We would like to put him out.

The CHAIRMAN. Is not that true, that he causes these violent fluctuations?

Mr. MURRAY. No; he is only part of the cause.

The CHAIRMAN. I am not claiming that he is all of the cause, but does he have anything to do with it?

Mr. MURRAY. At times his operations have great effect.

The CHAIRMAN. It would be a little better if he were not operating?

Mr. MURRAY. I think so. If we had no plungers, I would say so; I would say we would be better off, but I must confess that I can not offer you a definite way of putting him out of the business without affecting your machine.

Senator CAPPER. When this bill passed the House about three weeks ago, the day following wheat went down about 12 cents, and the market reports from Chicago printed here in the papers in Washington and New York said it was due to the passage of this bill. It happened on that particular day that there were probably several hundred Kansas farmers selling wheat and they of course lost by reason of that decline. Would you say that that decline on that day of 12 cents a bushel was a logical and natural decline?

Mr. MURRAY. I think it would be much more logical if you simply said that the Kansas farmers were selling wheat.

Senator CAPPER. Well, you think that had nothing to do with it?

Mr. MURRAY. No; let me get you straight, Senator.

Senator CAPPER. But every day a part of the crop goes to the mill, does it not?

Mr. MURRAY. Let me put this in there: Is there not that same amount of wheat drifting into the terminal markets through a hedge?

Senator CAPPER. But the farmer had nothing to do with fixing the price of wheat; that is, the Kansas farmer had no control over that whatever.

Mr. MURRAY. My dear sir, here is his control: If I am operating a country elevator in Kansas and buying wheat from the farmer, I am making a bid for the wheat based on what the quotation is in Chicago and on what I can get for it for export. Now, the minute he sells me wheat there is a wire going into Chicago to sell a corresponding quantity. So the farmer has just as much to do with the making of the price as the man in Chicago.

Senator CAPPER. When that Kansas farmer started from his farm, which was, say, 15 miles from the market, he had reason to believe that the price was, say, $1.25. That is what it was before he started to market his wheat, but he found that by reason of the passage of this bill or these manipulations of the market, those who control the market had used the passage of this bill to depress the market that day. Possibly, he could have turned around and taken his wheat back home, and not have sold it, but he was there with the wheat and he did sell it. He lost 12 cents a bushel, and the point I want to get at is whether that decline that day of 12 cents a bushel was a natural and logical decline?

Mr. MURRAY. Well, I could not tell you without referring to the information that came in over the wires on that day, and even then my information would be incomplete, because I do not know, and nobody does know, just what produced the buying and selling. It might easily have been the switching of orders from this country to Canada.

Senator CAPPER. But you will find from the market reports that day, you will find it in the Associated Press reports and in the market reports of the big daily newspapers, that it was stated that the passage of this bill on the day before was the controlling influence in depressing that market the following day and helped more than any other cause to bring about the depressed price.

Mr. MURRAY. In other words, that report brought sellers into the market, because you can only depress stuff by selling it, and the report of it brought sellers into the market. I do not see why it should. To me it is a bullish report. I do not see why that construction should be taken by the owner of the wheat.

Senator CAPPER. But was that a natural and logical development of that market, owing to the passage of this bill?

Mr. MURRAY. The development of the market, Mr. Senator, is a question of buying and selling. Now, what affects a man's mind when he says, "I will sell wheat to-day," or "I will buy wheat to-day"? We do not know.

Senator KENYON. Does not the market reflect his buying and selling? Does it not have something to do with it?

Mr. MURRAY. Absolutely. It can not be manipulated permanently, such as the Senator suggests, one way or another. A man can go on that market and, if conditions are favorable, sell stuff short and later buy it back at a profit. If conditions are unfavorable, he is just as liable to pay a higher price in order to get it back, and probably will; but to manipulate the market from day to day, so that it might go down 5 or 10 cents a bushel through selling it one day and buying it the next, that sort of thing is not a feasible

money-making proposition, and nobody carries it on, that I have ever seen, for any period.

Senator CAPPER. But the Kansas farmer who was selling his wheat that day was hit by reason of that method of manipulating the market on that day.

Mr. MURRAY. My dear Mr. Senator, that man was not hit because of manipulation. He was hit because the market was down.

Senator CAPPER. Well, was there any good reason, any natural reason, why that market should have gone down that day because Congress passed a certain piece of legislation?

Mr. MURRAY. Well, I would never depend on that kind of gossip.

Senator CAPPER. You might not, but it affected that market 12 cents that day.

Mr. MURRAY. Oh, no; this report was issued after the market was closed, and it was some newspaper man's idea as to what brought about the market conditions.

Senator CAPPER. Well, what did affect the market?

Mr. MURRAY. More sellers than buyers.

Senator CAPPER. Well, they sold because——

Mr. MURRAY. It might have been the exporter reselling, just as I outlined to the Senator here a minute ago, and buying in Winnipeg to replace it.

Senator CAPPER. Is it not possible that the bear interests on the market picked up this one particular incident and used it in a way that greatly depressed the market?

Mr. MURRAY. No; that is where I hope, Mr. Senator, before you go into this thing, you make a closer study of the market. There is so little of that kind of conversation in the running of the business of this country that it is infinitesimal and it should not receive any consideration.

Senator CAPPER. You would not say that the law of supply and demand was responsible for the decline of 12 cents on that day, would you?

Mr. MURRAY. Absolutely, I would say it, and I will tell you why, just exactly as I told the Senator. The situation would be that the duty goes onto wheat coming in from Canada. That is a bearish factor in Canada. That is one economic condition of importance. The exporter might be long on wheat in this country and conclude that he could buy it cheaper in Canada, because the tariff is going on, which is bearish in Canada. That removes us from the Canadian market and the exporter sells his wheat here expecting to buy it back in Canada for less money. Now, if he is a large exporter, he sells several hundred thousand bushels on the market, and the market breaks.

The CHAIRMAN. Do you think that that wheat which was imported from Canada into the United States would affect the wheat market here?

Mr. MURRAY. Well, it has some effect, but we exported a great deal more than we imported. We have been on an export basis during the entire year, so that our final price is determined by the export value, which affects the Canadian wheat just the same as the American wheat. The only advantage in buying in Canada is that their wheat has certain qualities that our wheat has not. The

mills use it to advantage in blending off the American wheat, and therefore it is really an advantage to the American farmers to have that blending possible in getting rid of their product. But the whole thing this year is governed by the export value, because we have a surplus which determines how much our wheat is worth here.

The CHAIRMAN. If we bought from Canada in a very short time quite a large amount of wheat, regardless of whether we were exporting wheat, would not that have a depressing effect on the American market?

Mr. MURRAY. It would have a depressing effect if our exportable surplus was sold, because it would simply throw so much more wheat on the domestic market. The duty of 35 cents a bushel, of course, would be against any further movement of Canadian wheat that would be taken on this side. That would be the reason why the millers did recently bring in wheat, but the whole thing works back. As long as we have an exportable surplus, whether your wheat is in Canada or in the United States, its value at the seaboard is governed by its export value.

Senator KENYON. Do you think that if there is an export demand, the tariff does no good?

Mr. MURRAY. Not in a year when you have an exportable surplus.

The CHAIRMAN. Did you ever look up the price of wheat right on the Canadian line, when we had the tariff, to see whether there was any difference that the farmer got for the wheat in Canada and what he got on this side of the line?

Mr. MURRAY. Well, there is a difference, depending on the size of the crops in the two countries.

The CHAIRMAN. Oh, yes; that has a great deal to do with it.

Mr. MURRAY. Yes, sir.

The CHAIRMAN. But, for instance, in the town of Portal, half of which is in Canada and half of which is in North Dakota, and having only one railroad, there is an elevator on the north side of the street in Canada and an elevator on the south side of the street in the United States. As I understand it, both elevators are owned by the same man. If there was no tariff on wheat he would pay the same price at each elevator, would he not?

Mr. MURRAY. Yes; sure.

The CHAIRMAN. He would necessarily have to, because a man would only have to drive across the street to get the higher price?

Mr. MURRAY. Yes; it would be just the same as if both elevators were in this country.

The CHAIRMAN. Did you ever look to see, when there was a tariff on this side, whether he paid the same price at both elevators?

Mr. MURRAY. That is a question of the customs.

The CHAIRMAN. Well, is it not a fact that there was always a difference then?

Mr. MURRAY. Well, if he went a hundred miles from the Canadian border, your price would be absolutely affected by the Canadian values.

The CHAIRMAN. No, no; I am talking about the border now.

Mr. MURRAY. If your man on the line was able to switch to either mill, of course he sells wherever it is highest, but if he sells his Canadian wheat in Canada and the American wheat in the United States, and

is absolutely honest in the handling of his grain, he may be paying as much as 35 cents a bushel in this country over what he is paying in Canada, if we have a short crop, or whatever the duty is.

The CHAIRMAN. Yes.

Senator KENYON. Suppose we had a large crop and both were exporting.

Mr. MURRAY. Then it is a question of the milling value of the different qualities of wheat. Their spring wheat brings a premium over ours, because it is a better wheat.

The CHAIRMAN. Well, I looked that up in 1912, when we were exporting wheat into Canada, and we had a tariff of 35 cents a bushel. The difference in price was never less than 10 and sometimes as high as 15 or 16 cents.

Mr. MURRAY. We were exporting?

The CHAIRMAN. Both exporting.

Mr. MURRAY. Well, that might be. Certain conditions might enable us to market our stuff to a little better advantage through the Gulf ports or reach a market that they could not get to; but, as a general proposition, when both countries have a surplus, it is the foreign situation that determines the value of the crops.

The CHAIRMAN. Do you have anything else to suggest, Mr. Murray?

Mr. MURRAY. That concludes my statement, Mr. Senator. I thank you very much.

The CHAIRMAN. We are very much obliged to you, sir.

We are now ready to hear any other witness.

STATEMENT OF MR. T. B. KING, TREASURER T. B. HOARD GRAIN CO., CENTRAL CITY, NEBR.

Mr. KING. Senator, my name is T. C. King. I am treasurer of the T. B. Hoard Grain Co., of Central City, Nebr.

We operate a line of about 50 country elevators, including a transfer elevator, a kind of country elevator, with a capacity of 250,000 bushels, located at Columbus.

Our business is entirely that of buying grain, such as is raised in our territory, from farmers, and merchandising it. We have no terminal interest or association with any firm or individual in any terminal market. Our business is purely a country elevator proposition.

Our company and its predecessors under the same ownership have been in business there for something over 25 years. I, myself, have been a stockholder of the company for 20 years, and an executive officer of the company for about 10 years.

We are interested in the maintenance of a broad hedgeing market, such as is afforded us by Chicago, because it enables us to handle our business steadily and economically.

I believe that any legislation which is aimed at or results in the curtailing of the speculative, we will say, or the hedging market, would react detrimentally on our business and so detrimentally to the interest of the producer and consumer and miller, and everybody concerned in the handling of the grain business.

I believe that a large future market, option market, that is accessible on even terms to everybody in the business on every side, where any amount of grain, practically, can be bought or sold instantly so

as to get economical operation, makes possible the handling of grain on either a large or small scale, on a minimum of profit as between the total profit, or the individual profit either, as between the price the producer receives for the grain and that which the consumer pays for the product. So I feel like urging that no action be taken which would limit to a dangerous extent, at any rate, the availability of this option market to everybody in the grain business.

In our business, we handle wheat, for instance, which is mostly sold to terminal markets, Omaha, Kansas City, Chicago, or goes to the Gulf for export, or is sold to interior millers in Nebraska, Iowa, Kansas, and Minnesota.

In the matter of our corn, we happen to be far enough West in Nebraska that we generally use in the western limit of production all of the surplus amounts of corn, and our firm has made a speciality for a good many years of shipping corn to the West. We are doing there a sort of merchandizing business, such as a grocer does. We have to have corn on hand to supply the feeder in the West when he wants it. We could not afford to accumulate that corn if we had no place where we could protect ourselves while we were waiting for the western demand to develop. We know that there is always a certain demand for old corn at the beginning of the season of feeding, and just prior to the movement of the new crop of corn.

For instance, late in November or the first part of December the western feeder begins to want a little corn. There is no corn coming from the territory at that time in Nebraska. We have to anticipate this western demand, which is just about as sure as the demand on the grocer for sugar, and by knowing when that demand is coming we can accumulate the corn and sell the option to be able to serve the trade in the West that wants that corn. So we do it all during the year. There may be a heavy movement of corn this week and practically no demand in the territory that we usually serve. We an, by the hedging process, by selling an option equal to the amount of cash corn we buy, retain that cash corn in our elevators, not shipping it to the market, because it is going back through our country, that is, it is going west of us and south of us rather than east. We can keep that grain in our elevators until such time as we are able to merchandise it. Then, when we can sell the actual corn, we can buy our hedge which we place at Chicago, and merchandise the corn, and the transaction is covered with little risk and at very small expense, and we have made a market for a certain amount of corn better than the farmer could have made otherwise.

I might illustrate that by saying that I believe, in three years out of four, we pay a higher price in Nebraska at our station for corn than corn would be worth if loaded on the cars for an eastern market or Chicago. We could not possibly sell the corn in Chicago and pay the prices we do, but because of the open trade and other grain dealers we pay for our corn more than its value at Chicago, and yet we can handle it more economically by means of the hedging market afforded there.

I think a good example of the value of the hedging of grain was afforded by the handling of the corn this year. There has been, since January 1, a quite heavy movement of corn—not heavy in comparison with the amount produced, but heavy in comparison with the amount required for consumption, and it resulted in the

accumulation at one time, I think, of some 35,000,000 bushels, if I remember correctly, in terminal markets, for which there was no immediate consumptive demand. I wondered many times during this period if it was not for the facility of selling this corn in hedge afforded to the terminal elevators, enabling them to buy the cash corn and pay the money for it and put it into storage until the time that the movement in the country lessened and the demand for export and for consmuption arrived, where the price of that corn would have gone.

I think that affords an example of the value the to producer vol- to the trade of the facility of the sale through hedges of a large and ume of grain.

The CHAIRMAN. Your idea is that the people who bought this corn from the farmers would not have been able to if the price had gone down much lower than it did?

Mr. KING. Yes; I can not see anything else. We ourselves were fearful, as I said, that the bottom was going out of the market, because we could not find any demand for it. Our usual demand in the West had vanished. After January 1 we shipped a very small quantity of corn to the West, because the buyer out there was not able to pay for it. He could not use it; he had to get along with his local feed.

The CHAIRMAN. To what extent, if any, do freight rates affect the market on corn and other farmers' products of that kind?

Mr. KING. That would be a hard question to answer, Senator, but it certainly made the price received by the producer just so much further away from the price paid at the terminal market as the increased cost of the freight. Now, I do not know whether the result of that was to increase the terminal price or reduce the price at the interior. I am not able to say. I would guess it was kind of half and half.

The CHAIRMAN. It was divided, in our judgment, between the producer and the consumer?

Mr. KING. Well, I have no reason to say that. That is just the conclusion I arrived at; yes, sir. My opinion is that to eliminate future trading or to seriously endanger it would be to throw the handling of cash grain into the hands of a few big firms, because the smaller dealer could not afford to take the chance. He would not have the capital to do it with.

In this connection, as I have observed, the country buying of live stock is about as hazardous a business as you could get into, and I do not know of any territory in which our elevators are located, and where I have had occasion to observe, where there is any man or concern who has made a success through a number of years in buying live stock from the farmer and shipping it.

The CHAIRMAN. Do you not know of any farmers who have made very much out of live stock?

Mr. KING. Not this year, but through a number of years they have, but I do not know of any buyer who made any money through a course of years.

The CHAIRMAN. You think the buyer was in worse condition than the producer?

Mr. KING. Well, I do not know of a single man in my experience who has made money as a stock buyer.

The CHAIRMAN. You have been dealing in grain out there?

Mr. KING. Yes, sir.

The CHAIRMAN. While this may not appear to directly affect the bill before us now, since you come from that country and know the conditions, and as it does affect things that may be the subject of legislation here, I want to ask you about it for that reason.

What are you paying for corn at your elevators in Nebraska?

Mr. KING. Our prices, as near as I can remember—the lowest price we have offered was about 29 cents.

The CHAIRMAN. Where was that?

Mr. KING. At Central City.

The CHAIRMAN. At Central City?

Mr. KING. I mean right in that territory.

The CHAIRMAN. Where is the market for that corn?

Mr. KING. Our market has been Omaha.

The CHAIRMAN. Omaha?

Mr. KING. Yes, sir.

The CHAIRMAN. What is the freight rate from Central City to Omaha, and how far is it?

Mr. KING. The distance from Central City to Omaha is 122 miles, and the rate of freight and war tax is 12.41 cents per bushel.

The CHAIRMAN. Per bushel?

Mr. KING. Yes, sir.

The CHAIRMAN. This corn was produced by the farmer at a higher price than any other crop he ever raised, was it not?

Mr. KING. I presume it was; yes, sir.

The CHAIRMAN. Do you know anything about how the producer of corn came out on a cost basis; did he get enough? Was 29 cents a bushel enough to make up the cost of production?

Mr. KING. I doubt if it would. I have no way of knowing, other than the estimates I have seen of various farm bureaus.

The CHAIRMAN. I do not expect you to get down to a cent, or anything of that kind.

Mr. KING. No.

The CHAIRMAN. I am not trying to corner you.

Mr. KING. I understand.

The CHAIRMAN. But I am looking for information. I have had a great many letters from all over the country about corn, and it seems to be the general opinion from the information that I get, that this crop of corn was produced by the farmer at a higher cost than he was able to realize when he came to sell his corn. Now, do you agree with that proposition?

Mr. KING. I think that is undoubtedly true; yes, sir.

The CHAIRMAN. Do you know of any instance out there where tenants produced corn and paid a share for rent, who gave up and went out and left the crop after they produced it because it did not pay to harvest it?

Mr. KING. I can not say that I know definitely of any instance, but I have had it very reliably reported to me that that was the case.

The CHAIRMAN. Well, I would not expect you to know personally, but from general information?

Mr. KING. I think it can be said that that is true; yes, sir.

The CHAIRMAN. In the vicinity of Central City, when a tenant farmer produces a corn crop, what share does he give to the landlord? What is the universal practice, if there is such a practice?

Mr. KING. Three-fifths would be about the average.

The CHAIRMAN. Does that mean delivered?

Mr. KING. Delivered to the market.

The CHAIRMAN. Delivered to the market?

Mr. KING. To the nearest market; yes, sir.

The CHAIRMAN. Assuming that the tenant had produced a crop of corn——

Mr. KING. Excuse me, Senator.

The CHAIRMAN. Yes.

Mr. KING. I said three-fifths. That is the tenant's share there. Is that your question?

The CHAIRMAN. Yes; I understood.

Mr. KING. The tenant three-fifths; yes, sir.

The CHAIRMAN. Take a tenant that has worked all summer and has produced a crop of corn, and assuming now, as I understand it has happened a good many times, he gets a job somewhere and he just throws up his lease and goes away, and assuming that the landlord offered to anyone else the right to complete the tenant s contract, could he afford to do it where he had to pay the hired man to husk it and shell it and deliver it, the entire crop? Could he get enough out of it when he sold his share to pay the actual cost?

Mr. KING. Of course, that would depend a great deal on the yield per acre.

The CHAIRMAN. Well, he would be in the hole, would he not, when he got through?

Mr. KING. He would be at a loss, yes; but not having any cost of production it would be a pretty long haul if he could not afford the risk of delivering it.

The CHAIRMAN. Suppose he lived in a town and had been told by a landlord that his tenant had left, and he had a hundred acres of corn standing in the field, that the tenant's share was three-fifths, could you not have hired the corn husked, boarded the men, and gotten out on it delivered into town? If the landlord had made you that offer would you have accepted it?

Mr. KING. I was just going to figure a little there, Senator. I would do it if he offered it to me. I figure this way. At the most, it cost 8 cents per bushel to husk the corn and put it in the cribs last fall.

The CHAIRMAN. In that case you had to go to the man who did the husking, did you not?

Mr. KING. Yes.

The CHAIRMAN. In which case you would have to hire him and board him?

Mr. KING. Yes.

The CHAIRMAN. You would have to pay something for that and for his teams' board, too?

Mr. KING. Yes. Well, you could get that done for 10 cents ordinarily, if the corn was fairly good. You could get the husking and the man furnish his own board——

The CHAIRMAN. I suppose you could get it husked for 10 cents, but how much would it cost to shell it and pay for the board of the shellers and everything?

Mr. KING. Well, that would depend on the distance, too. It would cost about 2 cents.

The CHAIRMAN. I have not gotten to the delivery yet.

Mr. KING. I know it costs about 2 cents a bushel to shell corn and bring it to the elevator by contract.

The CHAIRMAN. You board the shellers when they do it?

Mr. KING. No, sir.

The CHAIRMAN. You do not?

Mr. KING. For instance, we had corn——

The CHAIRMAN. All right; I am just getting at your practice. That would be 2 cents?

Mr. KING. Yes.

The CHAIRMAN. Suppose it is 10 miles in the country, how much would it cost to deliver it in town?

Mr. KING. Well, it would cost about 6 cents per bushel for a 10-mile haul, I would say.

The CHAIRMAN. That would be 18 cents per bushel?

Mr. KING. Yes, sir. Now, three-fifths of that corn would cost you——

The CHAIRMAN. But you had to do that with all of the crop.

Mr. KING. Yes, sir.

The CHAIRMAN. That is 18 cents per bushel for 100 bushels. That would be $18.

Mr. KING. Yes, sir. I judge you would own 60. That would make your cost 30 cents a bushel.

The CHAIRMAN. Yes.

Mr. KING. You would just about break even at the lowest price we had this year.

The CHAIRMAN. You would just about come out even?

Mr. KING. Yes, sir.

The CHAIRMAN. Now, that is assuming that he is throwing in the tenant's work of raising the crop, is it not?

Mr. KING. Yes, sir; but there are a lot of business men who have not made any money, too, Senator.

The CHAIRMAN. Oh, yes. I interrupted you there because I wanted to get these facts.

Mr. KING. Yes, sir.

The CHAIRMAN. We will adjourn here until to-morrow morning at 10.30 o'clock.

(Thereupon, at 1 o'clock p. m., the committee adjourned until to-morrow, Thursday, June 2, 1921, at 10.30 o'clock a. m.)

FUTURE TRADING IN GRAIN.

THURSDAY, JUNE 2, 1921.

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE AND FORESTRY,
Washington, D. C.

The committee was called to order by the chairman, Senator George W. Norris, at 10.30 o'clock a. m.

Present: Senators McNary, Capper, Ladd, Norbeck, and Kendrick.

The CHAIRMAN. The committee will come to order. We had Mr. King on the stand yesterday at the time of adjournment. Have you anything further, Mr. King, that you want to say?

Mr. KING. There is just one additional statement I would like to make.

The CHAIRMAN. All right.

STATEMENT OF MR. T. B. KING, TREASURER T. B. HOARD GRAIN CO., CENTRAL CITY, NEBR.—(Resumed).

Mr. KING. The statement that I have in mind particularly is this: That I personally feel that to place the regulation or control of whatever measure is adopted in the hands of one man might lead to serious derangement of the marketing system, which would be inimical to the interests of the producer and everybody in the line down to the consumer.

A commission of men, rather than an individual, would be the preferable method, in my opinion.

The CHAIRMAN. How many members would you suggest?

Mr. KING. Well, I think three men would be safe.

The CHAIRMAN. How would you suggest that they should be appointed?

Mr. KING. I do not think I have any suggestion to make as to that.

One other thing: I have no doubt but what it would be of value to the trade if extensive trading by any individual or firm could be prevented or limited; but it seems to me that the punishment for a violation of any rule of any exchange or any regulatory commission or individual should be visited on the individual rather than on the exchange, because when visited on the exchange it is visited on the innocent members of the trade and the industry throughout the country. You ought to be able to reach the man that violates the law and not the agency through which he works.

The CHAIRMAN. The committee concedes that point; but I suppose it is the idea of these who drafted this bill that it would be difficult, if not impossible, to get those individuals, and that the boards of trade having control of them would be able to do that and regulate them by rules.

Mr. KING. Well, it is conceivable to me that a man or a group of men might violate any rule that might be made by any exchange or any regulatory body of power. He might contrive to and succeed in violating the rules, just the same as the laws that are on the books against murder and every other crime are violated. The exchange, however, is simply the medium through which the man works, and to punish the exchange would mean harm to the trade. To punish the exchange would be to punish the innocent people depending on that agency.

The CHAIRMAN. I think there is a good deal in what you say, but, as an abstract proposition, on reading this bill, or the provisions that cover the point you sre making, I suppose that the Secretary of Agriculture will be reasonable in his regulation. If the board of trade was doing the best it could to prevent anything of that kind happening he probably would not do anything against the board of trade. It does not follow that, because he has the power to do it, he would do it. I suppose he would be fair and reasonable.

Mr. KING. It seems to me, under the provisions of this act now, it would be necessary for him to proceed in case some such thing happened, and bring his action on the exchange, because there is no provision by which he can reach the members or individuals trading through members. That was my thought.

The CHAIRMAN. I suppose he would have to operate, under the bill, through the board of trade itself, but it would not necessarily follow, in my judgment, that he would take away their right to do business?

Mr. KING. That would be within his discretion.

The CHAIRMAN. Unless he found that these violations were taking place with the connivance of the board of trade.

Mr. KING. It seems to me that that would be within his discretion. It hardly seems right to put discretionary power so large that it might be so harmful into the hands of one man when you could get at the individual instead of getting at the medium through which the individual works.

The CHAIRMAN. For instance, he might say to the board, "So and so violated these rules, and is violating them right along, and I demand that he be expelled."

Mr. KING. But he may not be a member. He may not be connected with any exchange at all.

The CHAIRMAN. But those who control the operations of the board would be able to control them as applied to the outsider as well as to a member, would they not?

Mr. KING. It might mean the disciplining of 20 or 30 or 40 or 50 members of the exchange. I can not speak from experience, because I do not operate on the exchange, but it is a custom that when a man wants to carry on trading on a large scale, to put his trade through a great many commission firms instead of one. Where there are 150 or 200 members, he could place his orders through 20 or 30 commission firms, and it would take some time to identify his interest. If you punish the exchange and the commission firms through whom the trades are handled, you still do not reach the individual who worked the hardship. That is the only suggestion I wish to make, Senator.

The CHAIRMAN. All right; we are very much obliged to you.

Senator Capper tells me that Mr. Howard is present and wishes to be heard. Mr. Howard, we will be glad to hear you now.

STATEMENT OF MR. JOHN R. HOWARD, PRESIDENT OF THE AMERICAN FARM BUREAU FEDERATION.

The CHAIRMAN. Mr. Howard, will you please state your full name and your position?

Mr. HOWARD. J. R. Howard, president of the American Farm Bureau Federation.

I am here not to give expert testimony with regard to the Capper-Tincher bill. I am a farmer who is more of a live-stock farmer than a farmer who produces and markets grain, but on behalf of the farmers of the country I wanted to say that we are in favor of the principles as outlined in the Capper-Tincher bill.

The farmers who are interested primarily in the producing and selling of the grain have been distressed for a number of years by fluctuating prices and uneconomic situations which have materially affected them, and in order to bring about a better condition the American Farm Bureau Federation was asked more than a year ago to appoint a committee of 17 men to make a careful study of the grain marketing of the Nation, and report. This committee was comprised of representatives of all the farm organizations, and was selected with as much care as I was able to give to the task.

The committee was in almost continuous session, either as a committee of the whole, or as subcommittees, for eight months. The farm bureaus of the country placed at their disposal sufficient funds to do some very careful work. They employed three or four very excellent accountants and statisticians during that time, and one of these men is here to-day. He was their chief man in the research work—Mr. Samuel W. Tator. Mr. Tator had charge of the grain investigation work for the Federal Trade Commission. He was with the Federal Trade Commission for over three years. Prior to that he was professor in the Wharton School of Economics, University of Pennsylvania, and as a further background had some 10 years experience in banking and accounting.

I would be very glad if Mr. Tator, for and on behalf of the American Farm Bureau Federation, could be allowed to give some further testimony, more completely than I am able to give it.

I simply want to again voice our approval of the work which the committee is attempting to do in the stabilizing of prices, and looking toward what we conceive to be a more orderly marketing of grain.

I think that is all I have, Mr. Chairman.

The CHAIRMAN. Suppose we have Mr. Tator on the stand right now, following that statement, if he is here.

STATEMENT OF MR. S. W. TATOR, ON BEHALF OF THE AMERICAN FARM BUREAU FEDERATION, 1116 GARLAND BUILDING, CHICAGO, ILL.

Mr. TATOR. Mr. Chairman and members of the committee, I had not expected to appear before you on this occasion, and therefore have not available my own personal notes which I have worked up

on this subject. However, I assisted Mr. Clifford Thorne, general counsel for the American Farm Bureau Federation, who appeared before the House committee in preparing the statistical data there, which is a part of that record and can therefore discuss some matters. Since that time we have been working on other material to add to it. I do not consider it necessary to repeat all of our previous testimony again here.

When we appeared before the House committee we had a very short time in which to prepare our material and had hoped to give much more data to your committee.

The CHAIRMAN. Mr. Tator, I think you had better preface your remarks by telling the committee who you are. Mr. Howard has already told us, but it ought to appear as part of your testimony for the benefit of the record, so that anyone hereafter reading the record may see it.

Mr. TATOR. Do you want me to go back in some detail?

The CHAIRMAN. Yes.

Mr. TATOR. Prior to my connection with the Wharton School at the University of Pennsylvania I had nearly 10 years' experience in banking and accounting, and at the Wharton School was on the staff there, teaching accounting and economics. I came to Washington——

The CHAIRMAN. How long were you there teaching economics and accounting?

Mr. TATOR. I was there from 1912 to 1917.

The CHAIRMAN. Where is that school located?

Mr. TATOR. That is a part of the University of Pennsylvania. It is one of the departments of that university.

I came to Washington in July, 1917, to take a position with the Federal Trade Commission, and had charge of the accounting investigation of the packers and was on that work for practically two years. I resigned from the Federal Trade Commission in December, 1920, to accept a position with the Grain Marketing Committee of Seventeen. During the latter part of my work with the commission I had charge of reviewing the accounting data relative to costs and profits of the grain trade which the commission had secured in their investigation of the grain trade. I did not participate in the field work of that investigation, because I was at that time investigating the packers.

However, in working up data for their cost and profits report on the grain trade, they got to a point where it became necessary to have some one review it and see that it was all right, as is always done before reports are released by the commission.

In that connection I had occasion to review the accounts and records that had been taken from the grain trade books, and I would like to say some things about that latter, if it is your desire and if it would be of interest to you. That work is now in the course of revision as the result of some of the work that I did. Mainly as a result of my recommendation the commission went out and secured additional information, because some of the first information was incomplete. That is one of the reasons why that particular report has not been made public as yet. There is some very important information in that which will give you some concrete idea of the margins that are taken in this business.

I think there is a great deal of misapprehension as to what the grain trade means when it speaks of the low margin on which they do business. I think if that statement is made before this committee, it would be well to inquire into what they mean by this margin and what particular part of the operation they are referring to when they speak of the margin.

Mr. Clifford Thorne has been working and has had other men working, preparing material to come before your committee. He has been detained and, apparently, he will not get here if your hearings are to be short; but I would like, on his behalf, to ask permission to file that material with you later, in case he does not get here before you close your hearings. I think we can have that material ready by the first part of next week or the middle of next week and, if permissible, I would like to make that a part of this record, as a later exhibit.

The CHAIRMAN. We will have it understood, then, if Mr. Thorne does not come before us and put that in, you will have the right to file it.

Mr. TATOR. I think it would be important to file some of that material, because since our appearance before the House committee we have taken up some new angles which we did not have time to cover then, and which, I think, will have an important bearing on the bill before your committee.

The CHAIRMAN. At the request of some parties I have wired Mr. Thorne to come here. I think that information ought to be filed with the committee as early as possible, in order to give people opposed to this legislation an opportunity to examine it and to be heard in regard to it, if it is thought desirable, and if Mr. Thorne does not come here we will be glad to have you file that just as soon as you can.

Mr. TATOR. I am going back to Chicago, and I will attend to that as soon as I get there.

We appeared before the House committee on Tuesday, January 25, and the material that we presented at that time is contained in the record of those hearings, pages 926 to 952, of the House hearings, of which this is the volume entitled "Future Trading, Hearings before the Agricultural Committee of the House of Representatives, January and February, 1921." In this volume there is also further testimony on Thursday, January 27, pages 968 to 984, and again on February 2, 1921, which is covered on pages 985 to 1014.

There are some schedules appearing on pages 961 to 964 that have an important bearing, because of the fact brought out there with regard to the amount and volume of trading carried on.

If you will permit me, I would like to review the principal points that we developed at that time to bring them to your minds, so that you will know the character of material that is there.

Mr. Thorne reviewed the decisions of State and Federal courts and of the Supreme Court of the United States on what constitutes gambling. He made certain points before the committee, and then we backed up those points by a series of charts and a series of tables of figures as to the volume of future trading on the Chicago market.

The important points brought out there as to the volume of future trading, I think, might be summarized as follows:

We showed that approximately three times as much wheat is sold in the futures pit at Chicago in an average year as is grown in the entire world. That is based on statistics taken from the Department of Agriculture records and in part from the Federal Trade Commission report as to future trading. We showed that there was sold in the future grain pits at Chicago fifty-one times as much grain as was shipped into Chicago.

The CHAIRMAN. In a year?

Mr. TATOR. In a year.

The CHAIRMAN. That is, the trading in a year——

Mr. TATOR. The trading in one year in the future market was fifty-one times as great as the actual grain which was shipped into that market, and that was based on a five-year average. It would be greater than that if you took the most recent figures, but we wanted to be conservative in this thing and we went back and took a fair average, which we thought would show the situation in normal times.

Then we wanted to get at how much grain was actually deliverable on those contracts, because all of that grain which comes into Chicago is not actually deliverable on future contracts because of the requirements which are used for future contracts. We found, by taking the statistics of the grain taken out of public elevators, which is a matter of record by the inspection department of the State of Illinois, that the grain available for delivery on these contracts, taking the volume of the grain traded in in these pits, that there was less than twenty-eight one-hundredths of 1 per cent of the grain available during any of these years as compared to the total trading.

Now, we made a very liberal allowance for some provisions of the board of trade regulations which it would be impossible to secure from the records, from which we secured the first information, and I want to explain that.

The board of trade regulations provide that all grain deliverable on contracts for future delivery shall come from public warehouses, but they also provide that during the last three days of the month of delivery months, which are usually only four months of the year, that grain on track, if inspected, may be offered in delivery.

We made a very liberal allowance; in fact, we went to a number of experts in Chicago and members of the board of trade themselves, and they told us that our allowance was far more than was necessary, that it would not be half of that, and yet we allowed that and we found, as I say, that less than twenty-eight one-hundredths of 1 per cent of the grain dealt in in the pits was ever available there for delivery.

Putting that in another way, it means that for every 10,000 bushels of grain which were sold in the futures' pits only 28 bushels of actual grain was available for delivery during the period under review.

Mr. Thorne brought out the point that the real heart of the matter in the future trading contract is the matter of intent of delivery. The contract carries words in effect "that delivery may be made." Now, he developed the point as to whether there is any intention of delivery when there is such a minute chance of delivery, and on that it seems to me would hinge the decision of the courts as to whether or not contracts for future trading would be considered as gambling contracts because settlement of them is made by the payment of price difference and delivery practically is never made on these contracts.

I prefer not to discuss that technically and it is a matter for a lawyer to handle and it is very unfortunate that Mr. Thorne is not here to do that, because I think he would give a very valuable contribution to the legal aspect of that case. The House record covers some very important information along that line, and if you are interested in that it would be well to read the pages I have indicated.

Senator KENDRICK. Is that a copy of the hearings before the House committee?

Mr. TATOR. This is a copy of the hearings before the House Committee on Agriculture, and the page numbers I gave previously indicate where our testimony will be found.

We also introduced a number of charts showing price fluctuations over a number of years. The House committee spoke of the matter of economy and did not have our charts put in, which I think was unfortunate in some respects; but they said if we would give them the figures back of those charts they would put them in, and I think they have most of those figures in. Those charts were very illuminating in my judgment.

One chart in particular which I would like to refer to was a chart showing the trend of prices after future trading in wheat was begun again on July 15, 1920. You will recall that there was no future trading in wheat on the Chicago market during a period of more than two years, as I recall it, and that on May 31, 1920, the regulations were taken off. The Government took its hands off of the grain trade, so to speak, and they were expected to resume their normal conditions. For six weeks they did not carry on any transactions in the futures wheat market.

We found, by an examination of the prices, that during those six weeks before future trading was resumed the fluctuation in prices of wheat, that is, the spread in prices, amounted to about 28 cents from June 1 to July 15, 1920. We found that with the resumption of future trading on July 15, that between that date and July 31, 1920, only two weeks later, that spread had been nearly 60 cents.

Now, we did not try to claim for a moment that the operators on the board of trade were entirely responsible for that, or that the economic conditions did not have something to do with it; but from a letter which has come to us, it is evident that even the members of the grain trade themselves believe that there were some forces at work there which should not have been there, and that they had some effect in causing such a wide spread during those two weeks.

I would like to read that letter.

I have a letter here signed by Blanchard Randall, who, I understand, is a member of the firm of Gill & Fisher, of Baltimore, a large exporting grain firm. This letter was written to Henry L. Goemann, of Chicago, Ill. Remember, this is a man who is in the grain trade and, therefore, an exponent of the usual practices in the grain trade. I make that statement as a background to reading this letter.

BALTIMORE, *December 27, 1920.*

Mr. HENRY L. GOEMANN,
Chicago, Ill.

DEAR MR. GOEMANN: Referring to your letter of the 21st instant, I do not remember that I placed any figure in my statement of opinion regrading the export price possible for the surplus wheat of the crop of 1920, but I did oppose the return to option trading on July 15. I thought it wiser to await full information regarding our crop of

both winter and spring wheat and until the demands of Europe were established. The violent fluctuations in the option markets would then have been restrained. There was no reason except the "smashing process" to break the December option in Chicago in two weeks from $2.75 to $2.06 because all the while, every day, more wheat was being sold to Europe than was being bought from the country. The export sales were limited only by prudence on the part of exporters.

I believe trading in futures is an essential part of the grain business, from the producer's side, the miller's side, and the exporter's side. It would be a bad day for the grain trade if trading in "futures" should be abolished, but there is a vast gulf between the legitimate trade and the gambling element. This chasm should be bridged by the boards of trade themselves before both sides lose their footing.

The welfare of boards of trade, as well as the welfare of the merchants composing their membership, rests upon credit and reason. When a large part of our people discredits us for certain practices allowed under rules and a state of unreason is produced which entails great loss on the public, then it is time for the boards of trade to take heed unto their ways and correct them by their own action before an unthinking and injured public opinion pulls down a building carefully erected during many years, but into which certain nuisances have gained admittance and been harbored unrecognized.

Yours, very truly,

BLANCHARD RANDALL.

Now, recently, the board of trade has undertaken to make some reforms voluntarily. I was very much interested in those reforms as they were announced in the papers, because, in reading over a history of the board of trade, written by one of the members, a man named Charles H. Taylor, a veteran of the Civil War, and having about 40 years' experience as a member on the exchange—a history written undoubtedly with full access to the records of the board of trade, I find that he sets forth many interesting things which would be illuminating to this committee, if you had access to that history. They are not generally available, so far as I know. It has been very difficult for us to get copies of it.

In this history Mr. Taylor points out a number of occasions on which the board of trade has been on the verge of having legislation passed. Back in 1892 there was the Hatch bill, which threatened to be passed, and was very actively pushed down here, and again, in 1900, as I remember it, and in 1908, it looked as though there was going to be national legislation. In practically every one of those instances the board of trade made a showing of cleaning house by abolishing certain practices, such as puts and calls, or whatever they were called at that time, only to resume them as soon as the chances of legislation had passed.

That is what makes many of us who have been studying the situation very reluctant to accept the board of trade's house cleaning because they have been through this before, and they have got to satisfy a certain element among their membership which insists upon being permitted to follow certain practices. That is particularly true of those who deal in future trading. They are at times a very dominant element on the boards, and I am wondering in this connection whether Mr. Griffin's testimony before the House committee is really typical of what all the membership of the board thinks.

It is my understanding that since his testimony down here there has been quite a disturbance on the part of some members as to whether he presented their viewpoint satisfactorily. However, that can be inquired into by this committee, if it is of interest.

In that connection, there are two bills before the Illinois Legislature——

Senator McNary. Pardon me, for just a moment, before you leave that subject. I have read the proceedings of the hearings before the House committee with a great deal of interest, and that testimony given by Mr. Griffin, who was the chairman and who represented the Chicago Board of Trade. What do you mean by asking the question, or making the observation that you wonder if his testimony is typical of others connected with that business?

Mr. Tator. I mean this: I wonder if he represents the full opinion of the board of trade in that respect, because here is one of the things that are a matter of newspaper talk at least. Mr. Griffin announced that there was not any need for the Illinois Legislature to pass this bill that they had up, because an agreement had been reached here in Washington on Federal legislation which would be satisfactory to the board of trade. This was denied by other members of the board of trade. I think the secretary, Mr. Mauff, denied it. I recall seeing his name in that connection in the papers, and I think the vice president of the board of trade denied it.

Now, I mention these things because they are a matter of discussion in Chicago.

Senator McNary. Then, by that do you mean to say that Mr. Griffin left the impression with the Legislature of Illinois that it would be useless for them to undertake the enactment of legislation when, in fact, he had an understanding with the leaders in Congress that certain Federal legislation would be written into the statutes?

Mr. Tator. Yes; the impression was given that an understanding had been reached down here as to the kind of a bill that would be satisfactory and stated that it was to be promptly enacted into law.

Senator McNary. Is that the point you are making?

Mr. Tator. Yes; and since that time Mr. Griffin has denounced the bill as being very materially changed from what he had agreed upon. I have attempted to find out what those material changes are, and I can not find that there are any very material changes that have made that bill more objectionable from the standpoint of the board of trade. There seems to be one provision that Mr. Griffin might object to, and that is the provision that the Secretary of Agriculture may define limitations with respect to the amount of open trades at any time. That seems to be the only important provision that has been added.

Senator Capper. How about the provision as to the cooperative associations, Mr. Tator?

Mr. Tator. Well, of course, the board of trade itself contends continually that they have never tried to keep farmer organizations out. As a matter of fact their regulations have the effect of keeping them out, although they have stated right along that they would let them in there. As a matter of fact they don't want them in because they are afraid to compete with them. However, I am taking them at their word and therefore assuming they could have no objection, Senator Capper, to the provision you mentioned.

Senator McNary. On page 149 of the House hearings, entitled "Future trading," Mr. Griffin had this to say, and he repeatedly reiterated it through all of his examination before that committee:

I also concur in the statement of Mr. Wells that the Tincher bill has many elements of a constructive character.

That is known as the Capper-Tincher bill and is the one that we have now under consideration.

Mr. TATOR. Yes, sir.

Senator McNARY (reading):

In principle, I wish to say to you I indorse the Tincher bill. In precise detail I believe it needs amendment, largely, to meet practical questions.

That is the real heart of his testimony, and it indicates his thought as I read the record.

Now, we have the Tincher bill here, and you are discussing it. That is an indorsement of the general principle, but it does say in there that it needs some amendment to meet practical conditions. Now, do you dispute that, or do you think it is practicable as it stands to-day?

Mr. TATOR. I have looked over the Tincher bill and I am very much in accord with the bill, although I think it could be improved. It can not be considered as drastic a bill as this Illinois bill, from the standpoint of those opposed to legislation, nor as strong a bill from the standpoint of those in favor of legislation. It would not be considered as strong as the Illinois bill.

Senator McNARY. Was that bill passed by the legislature?

Mr. TATOR. By the senate. I have been away from Chicago for several days and I have not heard what action the house has taken. I have that bill here in the form of a pamphlet, and if you care to have this a matter of record, there is some very interesting material here which I helped to prepare in addition to the copy of the Illinois bills. There is quite a review of things that I think this committee, if the Illinois Agricultural Association and the farmers of Illinois are not coming down here themselves, should have in your records. It is not so long, and if you care to look it over and see whether you want to put it in or not——

Senator McNARY. I would like to have it in, Mr. Chairman.

The CHAIRMAN. All right; if there is no objection it may be put in as a part of your testimony.

Mr. TATOR. Thank you, Senator.

(The pamphlet containing the Illinois bills referred to will be found at the conclusion of Mr. Tator's remarks.)

Mr. TATOR. There are two bills up for consideration in Illinois, No. 283 and No. 284. One bill provides for licensing the grain trade and licensing the board of trade, and puts it completely under the supervision of the Secretary of Agriculture. That bill has been passed by the Senate of Illinois. The other bill, which defines what future trading is, is known as 284, and that has not been passed upon by the senate as yet. My personal opinion is that, if they fail to get this bill through, 283 will go a long way toward correcting many of the evils, because it provides for full information about who is operating on the board, the extent to which trades are open; it requires that accounts be kept in a certain form, and gives the secretary of agriculture complete power of inspection, examination, publicity, and regulation.

The CHAIRMAN. What secretary of agriculture do you refer to there?

Mr. TATOR. That is the secretary of agriculture of the State of Illinois.

Now, this booklet gives you quite a review of that act, and it was very carefully drawn, after several months of work on the part of some very good attorneys out there with the help of men who have made a study of this subject. This also covers some important angles that it has been very hard to get information on.

The board of trade relies primarily, as I understand it, upon two main arguments to defend their widespread speculative activities in the pits. They usually call attention to the hedging features, and they also contend that the speculation stabilizes the market. That puts up an argument which is rather hard to shake; that is, if a person sees the importance of those two things and does not examine into the subject very closely.

In that connection I want to point out this fact, that the general assumption on the part of people who are uninformed about the grain trade is that hedging is universal, and that impression is deliberately fostered. Now, an investigation of the facts discloses—and it is in the Federal Trade Reports, volume 1—that approximately only 50 per cent of the country elevators of this country do hedge, and about half of them, I believe, only irregularly. Fifty per cent of them do no hedging at all. The amount of hedging they do differs very materially according to what part of the country they are in. The hedging which is done by the country elevators, when it is analyzed, takes on angles that are interesting. It is found that in the northwest States, where a great number of the country elevators are financed by the commission houses at the big terminal markets, they hedge much more frequently, and they apparently hedge because they are required to do so by these operators on the terminal markets. In other parts of the country, where they are less dependent for financing on the terminal markets, they do not hedge to such extent.

That is particularly true down through Oklahoma, Kansas, and the southern States. In Illinois the facts are that about 56 per cent of the elevators there do not hedge at all—that is, the country elevators.

I think that you will find that many of the millers do not hedge. Mr. Moses is on record before the House committee as to his idea of hedging; he does not believe that hedging is necessary in the flour trade in order to do business efficiently or profitably.

Senator CAPPER. That is Mr. Moses, of Kansas City?

Mr. TATOR. Yes, sir; and if he is to appear before your committee I think he could give you a valuable viewpoint there. At least, he gave some very valuable material before the House committee.

Senator MCNARY. In referring to the testimony of Mr. Wells before the House committee, to be found on page 78 of the same report, he makes some specific statements and gives figures. He says:

> Based upon the Federal trade report on hedging, it is safe to estimate that 75 per cent of this wheat would be hedged in futures.

Mr. TATOR. I have not found any such figures in the Federal Trade Reports. I am speaking now of the country elevators.

Senator MCNARY. Where is he speaking of the country elevators?

Mr. TATOR. You will find that in the Federal Trade Reports. You will find it right there [indicating].

Senator McNary. This is the report of the Federal Trade Commission on the grain trade, volume 1, page 213.

Mr. Tator. You will find also that hedging differs according to the way they do business. A man who sells on consignment; that is, ships his grain to market and takes his chance on the market and takes whatever the market price is, is more apt to hedge than the man who sells to arrive. The man who sells to arrive does not hedge so often. In fact, it does away with the necessity of hedging, because he buys his grain based on the price that he is going to get when he can deliver that grain; so he does not have any necessity for hedging, and a good many people think that that is a good practical way for the country elevator manager to sell, in a larger majority of the cases.

That is covered very adequately in the Federal Trade Commission report also, and therefore I do not think it advisable to take up the time to discuss it here.

As to the stabilization of the market, it has been more or less accepted by economists, who have studied long ranges of prices, that speculation does tend to stabilize the market. However, they are taking that stand on the long ranges rather than the short ranges, and, in this connection, Prof. Tausig, of Harvard, has written a very interesting article, which appears in the May number of the Quarterly Journal of Economics, in which he discusses to some extent its effect in stabilizing prices.

Senator Capper. What does he attempt to show in that article?

Mr. Tator. He has taken it up in a very technical way, and I do not want to discuss the whole thing, but I will quote a section from it if is is apropos.

Senator Capper. I thought you might be able to briefly tell us the conclusion he reached.

Mr. Tator. Well, he comes to the conclusion, as I recall it, that in the short-range prices, and those are the ones we are concerned with every day, speculation does not stabilize prices. There is a wide range in there of fluctuation that is very important to consider.

Now, when you analyze the operations of the speculative interests, who live off this future trading, you can easily see that they are not interested in the stabilization of the market. They want a fluctuating market. They do not care sometimes whether the market is up or down, but their whole effort is directed toward causing changes in prices. The floor of the board of trade just swarms with men who are termed brokers or scalpers and who operate in the futures pits. I know some of those men myself, and they make their money on the ups and downs of prices, they could not exist in a stable market.

To give you an illustration, one of them particularly has told me that he does not care whether the market goes up or down. He watches the psychology of the crowd, and he would just as soon go over on the other side of the market and take his quarter of a cent, as to be on the rising tide.

Now, they are not there to keep the prices stable. They want them to fluctuate. So I can not see very much in this argument that they make a stable market.

As an illustration of the value of hedging—in connection with my work with the Federal Trade Commission—I observed some very interesting results of hedging operations on the part of operators in the grain trade. I think you will find, when the Federal Trade

report comes out on profits and costs, some facts that will be illuminating on those points.

Senator CAPPER. When may we expect that report?

Mr. TATOR. Only the commission can tell you, Senator. I tried to get it myself, and I find they are being held up on some technical points there.

It was my observation, from studying the accounts, that during the 5-year period from 1912 to 1917 there were two years when a man who hedged consistently came out a little bit ahead of the game. There were three years when, if he hedged, he absolutely lost money, and in large quantities.

I remember the account of one firm in particular, which had a profit over five years, and this was a terminal merchandiser, of approximately $3,350,000; but before this net profit was stated he had charged off a loss from hedging of approximately $3,650,000. Now, if he had not hedged at all that man would have made approximately $7,000,000, but because of consistently following a hedging policy—and that is what most of these people do; it is a blind policy with a great many of them; they simply follow it because they believe it is going to come out all right for them—that man, because he had consistently followed hedging, lost $3,650,000, and had a net profit of $3,350,000 from his usual operations in the grain trade. That represents pretty costly insurance, in my opinion.

Now, with reference to some of these margins the grain operators talk about, I am wondering whether they are not margins after these losses from hedging have been deducted, and I think that is important to go into. I have recommended to the Federal Trade Commission that in giving to the public the information as to the spread between what the farmer gets for his grain and what the consumer—and by consumer I mean the man who uses that grain—has to pay, that they keep their eye on the ball all the time, and the ball in this case is the cash price of the wheat or grain, and that they do not let the factor of the operations in the futures market come in between to destroy that picture.

Now, in the grain trade they come in and buy their cash grain and they immediately go into the speculative market and sell futures. Then they come along and sell the cash grain at whatever the market is, and immediately go and buy back the futures.

Now, a perfect hedge involves continuity of the spread there; that is, the spread between the cash price and the future price at the time they made the first transactions and the time they close out. If that spread differs, they either have lost or gained on their hedging transaction. You will find that the market does not move with quite that degree of regularity which is usually assumed by those who advocate hedging as an insurance feature.

Now, what I want to come back to is this: By studying these accounts I have found that these grain people introduce into their cash transactions this element of gain or loss, which they take on their hedging transactions, and that tends to obscure what they take on their actual cash transactions.

Now, I have insisted that the Federal Trade Commission put their figures out showing the operations of hedging by themselves, and I think it is important to have the report come out that way.

Senator McNary: Would you object to that system, provided there was some provision in this bill abolishing hedging?

Mr. Tator. No; I have not said that. I simply want to raise this great question, and it is important, in my mind, as to whether or not hedging is so desirable a thing. Everybody seems to be generally afraid of doing something to abolish hedging, and I want to put on record that inquiry as to whether or not hedging is, in its ultimate effect, a good thing and one which justifies the widespread speculative activities which many of us consider so dangerous to the moral welfare of our people.

Senator McNary. That is an economic inquiry with which we are not concerned. We are concerned with legislative matters. Now, my question is: Would you abolish it or regulate it or restrict it or let it go as it is, and let the economic principles, through the possibility of evolution, correct the abuses that are apparent to-day?

Mr. Tator. If you are asking my personal view on that——

Senator McNary. Yes; that is what I am asking.

Mr. Tator. I am inclined to this point of view, that I would, in this bill, attempt to limit these speculative activities, regardless of whether they interfere with hedging or not. Now, in that I am opposed by the feelings of the people who hedge. But if you will let me illustrate this by a personal case, I want to tell you how unsound the position is of some of these people who take this point of view.

I had occasion to talk to a senator in the Illinois Legislature who really wanted to get some facts other than those given in the hearings. I went down to see him to tell him some things that I knew about. While I was there I met an elevator manager who was an advocate of hedging, and he was absolutely opposed to the bill. There developed an argument between the two of us as to certain facts. This man took the position that his business would be ruined if this bill in any way interfered with his hedging facilities, and he attacked it for taking any position at all with regard to limiting future trading. I assumed, of course, that he must be pretty well posted on this matter or else he would not be so insistent and take the decided ground that he did. I attempted to inquire, first of all, what his basis was for continuing the hedging, which he said was such a good thing, because I really wanted to know. My mind was open on the matter, and I asked him how he kept his books. I found out that he did not have any books covering the essential facts by which he could determine whether or not hedging was making money for him or losing money for him. I found out that his directors were at his mercy in that respect, and that they could not even get the facts if they employed an expert accountant. He simply had never made an analysis of his results and, of course, was not taking a very sound position.

Not only was that true in the case of that man, but it is true of many elevator managers who follow this policy of hedging. They are simply following a procedure which has been handed down to them and which has become a custom of the trade. I have no objection to a man thinking that he is doing all right by hedging, but, as a matter of efficiency and as a matter of common sense, it seems to me he ought to have before him such facts from which he could determine whether or not his policy was making money for him or losing money. That is my only interest in that connection.

Now, Senator Norris, I am willing to stop at any time this committee desires, but I would like to be able to put in that additional matter that I spoke of.

Senator McNARY. I really am not quite content that you leave that subject of hedging, which you spoke of from an economical standpoint and bookkeeping standpoint. What have you to offer to this committee by way of a constructive suggestion that might cover the situation which you have attempted to outline, and which I do not fully understand?

Mr. TATOR. You will recall, Senator, that I asked you if you wanted my personal opinion on it, and I gave you such illustrations as I could, and that was based upon some personal observation of results, which I think will be forthcoming in the Federal Trade Commission reports. However, I can not forecast what the conclusions are going to be.

Senator McNARY. I am not asking you for them, but we have a bill before us.

Mr. TATOR. Yes, sir.

Senator McNARY, I am interested in this bill and I want to know what you have to suggest that might be included in here that would cover the subject which you have discussed.

Mr. TATOR. Well, I think that the Tincher bill as now passed, giving the Secretary of Agriculture the right to place reasonable limitations on the so-called open trades, is a very good provision. Some people would really like to see you put a specific limitation on that. I think, when you have a reasonable man in charge of that he will take care of that on the basis of experience as it develops. I think they have been very wise in putting that provision in there, and giving him the power to exercise it when and at such times as he sees fit.

Senator McNARY. As I understand it, you have no quarrel with this bill regarding the dealing in futures and in hedging?

Mr. TATOR. I have not; no, sir.

Senator McNARY. That is what I want to know.

Senator CAPPER. You would not advise this committee to enact any legislation to eliminate hedging?

Mr. TATOR. No; I am not suggesting at this time the elimination of hedging because there are many people who still honestly think it necessary in their business. I think experience will prove—at least, I might differ with them in the matter of personal opinion—but experience will prove that there has been too much glamor thrown around that matter of hedging. I do believe, however, that, at least, your bill should seek to eliminate overspeculation.

One of the most conservative members of the board of trade told me that, in his experience, less than 10 per cent of the people who attempt to hedge understand how to use hedging scientifically and to their advantage. When men like that talk to you, and when it takes a very large examination of a very large number of accounts to prove or disprove this thing, and when the board of trade, which has been operating for many years never furnishes any figures to prove that it is a good thing, but simply relies on the fact that it is a custom in the trade, I think it is well to be on guard before we accept that argument. And that is true particularly because this

vast system of future trading with the extensive private wire system is maintained or has been permitted to go on undisturbed because it is supposed to be the means by which this hedging is made possible.

Now, the burden of proof seems to be on us to prove that hedging does not justify itself economically, but it is impossible to get at the data to prove or disprove the theory. That is a subject that ought to be gone into very carefully.

Senator CAPPER. If this bill becomes a law, through the supervision of the Secretary of Agriculture, we would be in a position to obtain this information?

Mr. TATOR. Yes, sir.

Senator CAPPER. Which you say we should have.

Mr. TATOR. Yes, sir; and that is one of the important provisions in the bill, that you do have current and continuous information on the trade. I think that is very essential to determine a number of these argumentative points, because, after all, a good many of them are simply pure arguments.

Now, I would like to speak on the Tincher bill as to one change that has been made there, and as to an amendment that was offered, which did not get in. The Tincher bill as finally passed has a provision in it with respect to opening exchanges to cooperative associations of producers.

Senator NORBECK. Point that out, will you?

Mr. TATOR. Yes, sir; I will refer to it specifically. Subsection (e) of section 5 on page 5.

Senator MCNARY. Page 4.

Mr. TATOR. Beginning on page 4.

Senator MCNARY. Yes.

Mr. TATOR. And onto page 5.

This section provides:

> That the Secretary of Agriculture is hereby authorized and directed to designate boards of trade as "contract markets" when, and only when, such boards of trade comply with the following conditions and requirements.

One of the requirements is, under subsection (e):

> When the governing board thereof admits to membership thereof and all privileges thereon on such boards of trade any duly anthorized executive officer of any lawfully formed and conducted cooperative associations of producers having adequate financial responsibility—

Then there was an amendment put onto it:

> *Provided*, That any such association or its representatives applying for admission to membership on a board of trade be able to and shall comply with and conform to all rules and regulations of such board if the same have the approval of the Secretary of Agriculture.

Now, on the floor of the House when this bill was up, Mr. Ketcham offered an amendment to that which I think is important because of the nature of the cooperative associations and the way they do business. I am referring now to their provision for returning patronage dividends. The Secretary of Agriculture might make it possible for them to do business and he might not. That is the chief reason why they can not do business to-day on the board of trade. They return what is alleged on the board of trade to be a rebate. It is simply because they are trying to put the business on a cost basis and return anything taken over and above cost to their members.

That is a fundamental principle of the cooperative associations, and Mr. Ketcham offered an amendment which would permit that. That amendment reads as follows, as will be found in the Congressional Record of May 12, page 1362:

Amendment offered by Mr. Ketcham: Page 5, at the end of the section, after the last word of the amendment offered by Mr. McLaughlin of Michigan, add: "*Provided*, That nothing in this section shall be construed to abridge the right of such cooperative association or prevent the division of its profits according to its own by-laws."

Now, that would make your law clearer and would certainly insure that the cooperative associations would have the right to do business on the board of trade and it would not be prevented because of its special way of carrying out its operations. That would simply read into this act a little more specific provision than is there now, and it would, in my opinion, strengthen it in that respect.

Now, there seems to have been one change made in this bill from the original bill offered by Mr. Tincher which could be covered in another way, and I leave that to the judgment of this committee as to whether I am right or not.

Originally there was a limitation put on private wires in the bill. That has been taken out. I am not familiar with the reason why it was taken out, or anything about it, but private wires are one of the evils that go along with the grain trade. They reach out over 80,000 miles; these wires cover over 80,000 miles of wire used primarily in this business, according to the Federal trade report. They go into the little towns all over the Middle West. These private wires are commonly referred to in the country as bucket shops, and the atmosphere there is one that is not conducive to the good morals of these communities.

The CHAIRMAN. How are these private wires connected up with the boards of trade?

Mr. TATOR. They are connected up to the commission houses that solicit business down there. They have a manager at each of those places. If you will go into one of the stock brokers' offices there, you could either buy or sell wheat in the market in the pit; but you would not be dealing in actual wheat, but merely placing a bet on it. You might go into one of the offices here and say, "Buy 100,000 bushels of wheat for me to-day," and to-morrow you might go in and say, "Sell 100,000 bushels of wheat for me to-day." You are not in the grain trade; you have no interest in it; you are taking a flier on the market as to whether it is going up or down.

The CHAIRMAN. Do these private wires have any other function that they perform? Do they do any actual dealing?

Mr. TATOR. Yes; but it is so far overshadowed by the speculative activity that there is little justification for their use in that connection, and I think the Federal trade report makes that very clear. I will not attempt to discuss before this committee what may have been the reasons for eliminating that provision from the Tincher bill because I have not followed the matter closely enough. However, I think it was one of the most important provisions in the bill, and I think a provision with respect to eliminating the private wire offices outside of terminal markets should be reinserted by this committee.

Senator MCNARY. I think this provision as it now appears is satisfactory to the Secretary of Agriculture, as I recall it, and he discussed it very fully in the House hearings.

Mr. TATOR. That is the main point I want to bring out in this connection.

Now, Senator, with your permission, I will send you this other material to be incorporated in the record.

The CHAIRMAN. Which Mr. Thorne has?

Mr. TATOR. Which Mr. Thorne has; yes, sir.

The CHAIRMAN. All right. Are there any further questions of this witness by any member of the committee?

(No response.)

The CHAIRMAN. All right, Mr. Tator, we are much obliged to you.

I am informed that Mr. Crosby, of Minneapolis, is here, and that he has to get away on account of sickness in his family. He would like to be heard now and under those circumstances, we had better let Mr. Crosby proceed at this time.

(The pamphlet referred to by Mr. Tator is here printed in full, as follows:)

REGULATION OF THE GRAIN EXCHANGES.

[Brief of arguments in favor of Senate bills 283 and 284. Prepared by the Illinois Agricultural Association, Transportation Building, Chicago, Ill.]

Scope of bills: These bills are companion bills. Senate bill No. 283 is a bill to regulate grain exchanges and Senate bill No. 284 is a bill to prohibit speculation in futures. Senate bill No. 284 follows, as a consequence, from Senate bill No. 283. For purposes of statement and argument the bills may be considered together.

A public exchange described: The bill (Senate bill No. 283) uses the term "public exchange." In common parlance it refers to a board of trade.

A public exchange (or board of trade) is an association of commission merchants, brokers or traders, incorporated or unincorporated, who usually and commonly meet together at a designated place for the purpose of buying, selling, and exchanging grain or other products. It is a place where buyer and seller, either individually or through agents or brokers, meet to exchange commodities. A public exchange (or board of trade) does not, on its own account, buy and sell. It simply furnishes facilities and conveniences for the transaction of business. It is, in other words, a public market.

Being a public market, the analogy between a public exchange (or board of trade) and a public market to which vegetable producers and consumers resort is almost exact. Public markets have always been subject to the regulating power of the Government.

Magnitude of operations: The grain business of Illinois, of the Mississippi Valley, as well as that of the western part of the United States, is dominated, and the price of grain fixed, on the board of trade of Chicago. Practically all the grain bought and sold in Chicago is bought and sold on the board of trade. As an economic factor, for all practical purposes, it controls the price which the farmers of Illinois, of the Mississippi Valley, and of the Western States receive for their grain. The operations on the board of trade influence the economic life of the West, not of farmers alone, but of the general public as well.

Practices inimical to economic life: While recognizing the importance and necessity of public exchanges (boards of trade) as cash grain markets, yet the farmers are convinced that abuses in their operations exists—abuses detrimental to the best interests of producers and consumers. Abuses and grievances about which complaint is made may be classified as follows:

(1) Organized speculation.
(2) Manipulation of the market.
(3) Lack of information as to speculative deals.
(4) Commission men speculating on their own account.

These practices are regarded as pernicious. Some of them, it is claimed, are morally wrong, hence economically unsound. All exact a toll and impose a burden upon the general public as well as menace the welfare of the farmer.

The necessity of regulation: Like any public market in which vegetables and food products are dealt in, a public exchange (board of trade) should be open to all on equal terms. Any institution which dominates the economic life, both of the food producer and of the food consumer, should, in the interest of the public, be subject

to public regulation and public control. Especially is this true of an institution which, by pernicious practices, affects the welfare and economic conditions of a vast body of citizens.

Power to regulate: When the farmers of the Middle West were defrauded by elevators and warehouses by means of false weights and grades, they secured the enactment of the warehouse acts. The celebrated Munn case sustained this legislation.

They now claim that the pernicious practices on the board of trade also defraud them, but in a different way. The principle of regulation is the same in either case.

The bills, therefore, are referable to the police power. While the foundation of a board of trade is essentially private, yet by reason of its domination of the grain trade it is impressed with a public interest. In numerous cases dealing with a board of trade and like exchanges, the courts have suggested that, by proper regulation, the State, through the exercise of its police power, might regulate and control its operations.

The police power has never been accurately and exactly defined and circumscribed. It is considered as being capable of development, extension, and modification so that the power of governmental control may be adequate to meet changing social, economic, and political conditions.

Having stated the basic principles upon which the bills are predicated, a short digest of each bill is subjoined.

SENATE BILL NO. 283.

Grain exchange as public exchange: The bill provides, by section 1, that a grain exchange is a public exchange, and the place where the business is transacted is declared to be a public market.

This preliminary declaration is necessary in order to show that the general assembly finds as a fact that grain exchanges are impressed with a public interest. The finding of fact in section 1 is also preliminary to the remaining sections of the bill, which are wholly regulatory in nature.

The regulatory provisions of the bill: The regulatory features of the bill may be grouped under the following main headings:

(1) Requirements of licensure as a part of regulation (subsection 2–5):

In this State it has been found that regulation by means of a license is the most effective means of controlling the subject-matter regulated. Hence, the bill provides that no public exchange shall be operated without a license from the Department of Agriculture.

Sections 3, 4, and 5 provide the manner through which a license may be procured.

(2) The public duties of a public exchange (sec. 6):

The public exchange having been impressed with a public use and its regulation having been taken over by the public for the public good, it becomes necessary that the law should define the duties of a public exchange in order that the public and those resorting to the exchange shall be advised as to its obligations and duties.

The bill, by section 6, defines those duties shortly and succinctly as follows:

(a) To maintain a public exchange.

(b) To establish reasonable rules, regulations, and by-laws.

(c) To admit, without discrimination, all persons conforming to its reasonable rules, regulations, and by-laws and to afford equal and uniform facilities to all persons entitled to avail themselves of its privileges.

(d) To maintain free and open competition; and

(e) To keep such records, books, and accounts as may be required by the Department of Agriculture in order to disclose the transactions, business, and contracts entered into on the public exchange.

These duties speak for themselves. They are not onerous, but simply provide what shall be done in order that a public exchange may discharge its public duty.

(3) Illegal, unreasonable, and discriminatory acts prohibited (sec. 7):

Having adopted the theory of regulation through the Department of Agriculture, having defined its public duties, it then becomes necessary for the law to declare the acts which shall be deemed to be unlawful, unjust, illegal, unreasonable, or discriminatory. This is done in section 7, which declares certain practices, which past experience has shown to be against the best interests of the public, to be unlawful or discriminatory.

Section 7 is short and is as follows:

"Any rule, resolution, by-law, custom, usage, or practice of a public exchange is declared to be unlawful, unjust, illegal, unreasonable, or discriminatory, which—

"(1) Limits, or tends to limit, suppresses, or tends to suppress, destroys, or tends to destroy, free and open competition between traders dealing on such public exchange;

"(2) Creates, or tends to create, a monopoly or 'corner';

"(3) Restrains, or tends to restrain, trade;

"(4) Gives any person entitled to trade in such public exchange, rights and privileges not accorded to or enjoyed by all other traders;

"(5) Denies to traders equal and uniform facilities of such public exchange;

"(6) Discriminates between traders, producers, or shippers."

(4) Regulation of traders on the public exchange (secs. 8-10, inclusive):

If a public exchange is to be regulated, then it must follow that those who are to trade on the public exchange must also be subjected to some limited oversight or control. This oversight or control is secured through requiring the traders, before trading on the public exchange, to procure a license from the Department of Agriculture. This gives to the Department of Agriculture information as to the personnel of those who are entitled to trade on the public exchange and is incidental to the proper regulation of the exchange. It must also follow that if traders violate the law or fail to conform with high standards of business morality they should be excluded from the benefits of the exchange. The reasons for excluding the traders from the exchange are set forth in section 10. Any trader may be excluded from the public exchange if he shall:

"(1) Violate any of the reasonable rules, regulations, by-laws, or orders of such public exchange.

"(2) Fraudulently, with intent to injure, damage, or destroy the business of any other trader, refuse to trade with such trader.

"(3) Conspire or agree with any other person, whether a trader or nontrader, to injure, damage, or destroy the business of any person admitted to trade on such public exchange."

(5) Regulatory powers of the Department of Agriculture (secs. 12-19, inclusive):

The regulatory powers of the Department of Agriculture may be classified as follows:

(*a*) A public exchange is subject to the visitation, inspection, and examination of the Department of Agriculture.

(*b*) The Department of Agriculture is vested with ample and plenary powers to secure evidence as to whether or not the act is being complied with.

(*c*) Illegal, unreasonable, or discriminatory acts may be prohibited by action taken by the Department of Agriculture.

(*d*) The Department of Agriculture may require reports to be made to it.

(*e*) The officers and agents of the Department of Agriculture are given access to the trading rooms.

(*f*) A violation of the provisions of the act is made a misdemeanor.

(*g*) No one is excused from testifying concerning a violation of the act and may be compelled to testify. In such case, if the testimony incriminates the person giving it, he is granted complete immunity from punishment.

Conclusion: The bill, while containing 21 sections, is very simple. It simply declares that a grain exchange is a public exchange and is subject to public regulation. Public regulation is had through licensure, inspection, examination, and visitation by the Department of Agriculture.

The purpose of the bill is to preserve the good and to eliminate the evils and abuses of grain exchanges.

SENATE BILL NO. 284.

This bill is very simple. Its object is to prohibit speculation. It does not prohibit contracts for future delivery. But in order that a contract for future delivery of grain shall be valid the grain which is the subject matter of the contract must at the time the contract is made have an actual or potential existence. The grain must have been grown or must be growing.

By section 1 the seller must—

(1) Be the owner, or agent of the owner, of the actual physical property of the grain; or

(2) Be the owner, or agent of the owner, of grain in actual course of growth; or

(3) Be under contract to acquire possession, or the assignee of a person under contract to acquire possession, of the grain; and in either case

(4) Must have the bona fide intention to deliver the grain.

By section 2 the buyer must have the bona fide intention to receive the grain.

By section 3 a violation of the act is made a misdemeanor.

By section 4 all contracts in violation of the act are void.

HOW GRAIN IS MARKETED.

The average value of grain marketed annually in Illinois is $118,354,772. These figures include only grain shipped out of the county where grown. This grain is

handled at the local station by country elevators, of which there are 1,371 in Illinois, nearly half of which are owned by farmers. Most of the grain is sold by farmers direct to these country elevators. A small amount is handled on consignment, on contract, or otherwise.

Eighty-three per cent of the grain shipped from local elevators in Illinois goes to terminal markets, going to the four principal terminals in this territory in the following proportions: Chicago, 73 per cent; Peoria, 11 per cent; St. Louis, 9 per cent; and Indianapolis, 7 per cent.

Practically all the grain which is shipped to the terminal markets is consigned to some grain broker or commission house for sale. The regular rate of commission for making such sales is 1 per cent.

These brokers and commission men have joined with terminal elevator men, millers, and others to form what are known as boards of trade or grain exchanges. The grain exchanges themselves do not buy or sell grain, but simply provide the market place where their members may buy and sell for themselves and for others. Such transactions are limited to members of the exchange. The largest of these exchanges is the Chicago Board of Trade, through which passes approximately 325,000,000 bushels of grain annually, 52 per cent of which comes from Illinois.

On arriving at Chicago, each car of grain is sampled by State grain inspectors. These samples are graded by official expert graders. The sample bag, with official grade and weight attached, is then placed on the sample table in the cash market place on the board of trade floor. Here salesmen for the commission houses meet buyers representing the industries, terminal elevator companies, and exporters. Usually grain is sold the same day it arrives. The trades made over the cash tables establish the going price of cash grain at that particular time. The larger the volume of grain bought and sold in one particular place and the greater the number of buyers and sellers involved, the more accurate will be the price established.

Neither S. B. 283 or 284 seeks to destroy the grain exchanges or to do away with their usefulness as market places. The value of the grain exchanges in providing facilities for buyers and sellers get together, and for cash grain to be bought and sold in large quantities, is unquestioned.

The fact that on these cash markets the price of the farmer's grain and of the consumer's food is established, however, makes it vital to the interests of the farmer and the public alike that the exchanges be conducted on a basis of unquestioned integrity, and under the supervision of the State.

Farmers should be there, too. We, as farmers, feel that it is essential to our welfare that we should be represented on such exchanges, not only through the regular commission companies, but by our own farmers' cooperative commission companies. The most successful type of farmers' marketing company is the cooperative company. One of the principles of cooperation, recognized in the cooperative law of Illinois is that the dividends on stock should be limited, any excess earnings above surplus funds being prorated back to the shareholders in proportion to the business done. This pro rata payment is really a deferred portion of the original purchase price and not a dividend nor a rebate. The grain exchanges, however, will not admit to membership or to trading privileges farmers' companies which pay a patronage dividend.

S. B. 283 purposes to remedy this condition, and to bring under State supervision the market places where the price of grain is established. The fairness of this demand can hardly be denied. Herbert Hoover, in testifying before the Agricultural Committee of the United States House of Representatives last February, said:

"The development of the farmers' elevator has been a great benefit to the farmer. I would think the exchanges, if they were liberal-minded, would be glad to have representatives of those associations upon their own board in the development of the entire marketing machinery of the country. It would be a progressive step."

It should be noted that from early English history down to the present time all public markets, excepting boards of trade, have been and are subject to stringent regulations to prevent forestalling and regrading, the cornering of the market, the compulsion of correct weights, and measures and the compulsion of honesty as between traders for the protection of the consuming public.

THE FUTURES MARKETS.

In addition to the cash grain market there has grown up at several of the terminal markets a market in futures, where contracts for the future delivery of grain are bought and sold. The futures markets of the United States are Chicago, Minneapolis, Duluth, Kansas City, St. Louis, and Toledo. Of these Chicago is by far the largest, and exercises a dominating influence over the others. It should be noted in passing that future trading on the Minneapolis, Duluth, Kansas City, and St. Louis markets

has been brought under State regulation by laws passed this winter by the legislatures of Minnesota and Missouri, leaving Chicago and Toledo as the only unregulated futures markets.

"Grain futures," according to Rollin E. Smith, of the United States Bureau of Markets, "are contracts to deliver, or to accept delivery of, a certain amount of wheat or other grain of contract grade at a specified price in some future month. Yet it is understood that either the buyer or the seller may, at any time, transfer his contract by a sale or a purchase, as the case may be."

The right of a producer to sell his products for delivery at specified future date, or of a bona fide buyer to buy for such future delivery, can not be questioned.

If future trading in grain were limited to such bona fide transactions the farmer would have no complaint to make. As a matter of fact, however, future trading on the Chicago Board of Trade has developed to such an extent that sales of grain by speculators who have no grain and do not expect to have any, to men who do not want grain and never expect to have any, far overshadow the legitimate transactions.

It is our contention that this tremendous volume of future trading is a great hardship, both to the producer and the consumer, because:

1. It provides a means whereby speculators can manipulate the market up or down at will, either by the volume of future trades or by circulating unreliable market gossip, or both.

2. It provides a form of legalized gambling, that through private wires and the public telephone and telegraph reaches to every corner of Illinois, with the detriment to public morals that always follows gambling on a large scale.

In the foregoing use of the term "speculator" the speculator in futures is referred to. There is also the cash grain speculator, who buys grain when it is plentiful and holds it until periods of scarcity. This type of speculator performs a useful function, and can not be eliminated until the time comes when farmers are prepared to hold their own grain until the consumptive markets are ready for it.

SPECULATION ON THE CHICAGO BOARD OF TRADE.

The volume of speculation on the Chicago Board of Trade, according to the Federal Trade Commission, is 18,500,000,000 bushels a year; the amount of money involved, about $15,000,000,000. This is 57 times the amount of cash grain handled at Chicago. In other words, for every bushel of actual grain sold on the Chicago market, 57 bushels of fictitious grain is sold. The entire wheat crop of the world is sold three times each year on the Chicago Board of Trade alone. The wheat crop of the United States is frequently sold six or seven times at Chicago before harvest. The amount of grain available for actual delivery on future contracts at Chicago is only twenty-eight one-hundredths of 1 per cent. The amount actually delivered is much less than this. The Chicago Board of Trade defends this tremendous volume of speculative future trading on two grounds:

1. Future trading stabilizes the market.

2. Future trading is necessary to provide a broad hedging market in which dealers in cash grain can hedge to insure themselves against loss.

Let us look into these two points.

1. Stabilization.

There is plenty of evidence to show that a large volume of speculative trading increases instead of diminishes market fluctuations. The speculator can not make money on a stable market. When he sells or buys futures, he, in effect, places a bet that the market will go up or down. He has a direct financial interest in having it go up or down. That he uses the large volume of fictitious grain which he buys or sells to force the market up or down can hardly be doubted by any one who has studied the operations of speculators on the board of trade.

In a "History of the Board of Trade," written by Chas. H. Taylor, member and former director of the Chicago Board of Trade, many instances of market manipulation are given. Here is a sample:

"The corn pit furnishes the chief market excitement during November and December (1891). The traders woke up to the fact that there was danger of a corner about the 20th of November and the covering by the shorts advanced the price at that time to 60 cents. The clique strengthened its hold and by the 27th was able to run the price up to 80 cents. Five firms were said to be interested in this manipulation."

Apparently manipulated markets were the rule in those days, for in reviewing the year 1894, Taylor says:

"Conservatism, ultraconservatism, was the business rule, forced by stern necessity, at first, and prolonged by timidity taught by panic. Thus it was that, on the board of trade, while men still struggled for gain, and by foresight won, or by lack of foresight

lost their fortunes, there were no attempts at large manipulations, and the markets throughout the year were controlled by natural laws and not by artificial movements."

Because the natural law of supply and demand was allowed to operate, because the market was not manipulated, the year was branded an unusual year, marked by ultra-conservatisms.

THE EVIL OF SHORT SELLING.

Since that time the Board of Trade has adopted rules which practically eliminate corners, but short selling is allowed to go practically unregulated. In other words, under the present rules, manipulation of the markets must be mostly on the bear side, forcing prices downward, while manipulation upward is largely prevented by the board's anticorner rules.

In testifying before the Committee on Agriculture of the United States Congress in February of this year, L. S. Gates, former president of the Chicago Board of Trade, said:

"We have recognized the danger of manipulation on the long side, the cornering of the market, and have taken every means to protect ourselves against that. We have not taken similar steps on the short side. I, myself, am still unconvinced that it is possible to manipulate more than in a very narrow and temporary way."

Others who are perhaps as familiar with market movements as Mr. Gates do not share this optimism.

The following statement of the effects of short selling was made in a letter to a member of the Farmers' Marketing Committee of 17 by a grain trader of long experience, a member of three of the leading grain exchanges of the country:

"Short selling is a speculation pure and simple, and such sales are made with the object of getting a profit from declines in the market at the expense of others. The effect of such short sales in most cases is to cause and accelerate declines, and they bear very heavily on a market that is striving hard to hold up and advance, and which would often do so, if it were not for short selling. Short sales aggregate in a year on the grain exchanges in the United States many times more than the actual grain represented by the crop of grain grown. Such sales do not contemplate any real delivery of the grain so sold and in probably not more than 1 per cent of the cases are deliveries ever made. The short seller sells property, or what is supposed to represent property that he does not own, which has the effect, at least for the time being, of depressing the value of the property of another who does own such property. Now, no one has any moral right to sell what he does not own or possess, and if laws were passed and enforced prohibiting this, farmers and the public would be greatly benefited."

In an article entitled "An inside view of the Board of Trade," which appeared in Wallace's Farmer, February 11, 1921, the following statements are made by Rollin E. Smith, of the United States Bureau of Markets. Mr. Smith was formerly a member of the Chicago Board of Trade and has represented the Bureau of Markets on the board for a number of years:

"The greatest abuses of future trading on the board of trade—or, rather, of the system, are overspeculation, or unrestricted speculation, on the part of members of the board of trade itself, and manipulation by a few big traders; 12 years ago the writer of this article, in his book, 'Wheat Fields and Markets of the World,' wrote as follows in discussing the grain exchanges:

"That there is manipulation in the markets is not the fault of the market system. Manipulation and attempted corners in grain do not call for legislation and drastic laws, but for sufficient moral courage on the part of the directors and members of the exchanges to suppress them. Manipulation is deplored by the trade as a whole, and might easily be suppressed. That such open manipulation is permitted as is practiced in the Chicago wheat, corn, and oats pits by a few powerful traders, while at the same time many members of all the grain exchnges are opposed to it, passes comprehension, and, doubtless, a few generations hence, the tales of our squeezes and corners and manipulated markets will be read with the same excited interest that we now read of the old buccaneer days. About the only difference between the old-time buccaneer and the modern manipulator is in the way the trick is done; the latter does not use a pistol and cutlass nor cause his victim to walk the plank.

"These big traders use the market as if it were their own private affair, absolutely regardless of other members' rights or of the menace their operations are to the business of others. The absolute controlling of the wheat, corn, or oats pits of the Chicago Board of Trade by one man or a set of men is a piece of audacity having few equals in commercial history.

"The foregoing regarding manipulation was true then and it is true to-day; but there is also the abuse of overspeculation, which obtained then as it does to-day. This is not referred to in the above quotation.

"The writer has hoped, and until recently has believed, that reforms would be made by the exchange itself, but it now seems evident that the board of trade has no idea of curbing overspeculation, and it shuts its eyes to manipulation, justifying itself by the so-called insurance that hedging facilities offer to the trade."

Referring to the delivery rules of the Chicago Board of Trade, which permit the seller to deliver any time during the delivery month, and grain of almost any grade, Smith says:

"If live stock were traded in for future delivery and the seller had the option of delivering sheep or hogs or cattle as he pleased, the result would be that no one would ever buy futures for the purpose of accepting delivery.

"The rule in question could not have been more shrewdly framed if it were intended to aid the terminal elevator companies in manipulating the market on the bear side; for anyone who has bought wheat or corn, sincerely believing in higher prices, can be forced out of the market by delivering him a 'skin' grade of several classes and grades of grain in several different elevators.

"One hundred million bushels or more of wheat or corn futures, either long or short, are often concentrated in the hands of a few professional speculators. Such concentrated holdings are always a menace to the market. Instead of such speculation stabilizing the market, it causes wide fluctuations, for the reason that both the buying and selling is done in large lots and in a short space of time."

One of the largest wheat buyers on the Minneapolis market told a member of the committee of 17 last month that owing to the fact that almost any kind of wheat can be delivered on future contracts, the flour mill which he represents can use only 15 per cent of the wheat delivered to it. This flour mill hedges its sales of flour by buying wheat for future delivery. Instead of accepting delivery, it has to throw 85 per cent of this wheat, either as wheat or as option contracts, back onto the market during the delivery month. This condition makes it possible for short sellers to manipulate the market almost at will, well knowing that they can cover their short sales when the millers are forced to dump their contracts.

The British Royal Commission, sole wheat buyer for the British Isles, has not been asleep to the possibility of manipulating the market downward by short selling, as shown by the following extract from a recent issue of the London Miller:

"Recently we had occasion to refer to the purchasing policy of the Royal commission and to point out what was the fundamental cause of the break in wheat values in America during the past few months. We considered that it was chiefly the policy of the purchasing committee of that body that brought about that desirable result."

The result in question, however, was far from desirable from the standpoint of the American farmer.

Herbert Hoover, in testifying before the congressional committee already referred to, said:

"I have the feeling that very large volumes of short selling that are deliberately intended to depress the price results in considerable injury and loss to holders, particularly farmers, who are not in a position to hold as against a lowering price, as in the case of men who have outstanding obligations. They are forced into liquidation, and grain is brought into the market that would not normally flow there, and thereby such a manipulation has a damaging effect on price and works a great injustice."

In its recent report to the President on the cost of living, the Federal Trade Commission recommends, among other things, "The passage of measures aimed at the elimination of reconsignment and brokerage operations, including also gambling in futures."

A FLOUR MILLER'S VIEWPOINT.

Eighty per cent of our wheat crop goes to the flour mills. These millers are surely in position to observe at first hand the manipulation of prices made possible by speculation.

In testifying on this subject before the congressional committee already referred to, L. E. Moses, president of the Southwestern Millers League, said:

"The producer is penalized by permitting this trading to continue, and the consumer is also compelled to pay an increased price to guarantee dealers in the actual commodities, protection against the fluctuating option market that we have had for so many years as a controlling factor, which in turn is largely controlled by speculators who by overwhelming purchases or sales affect the markets for periods of our crop year contrary to the actual value of the grain based upon its worth relative to supply and demand.

"It is comforting for those engaged in our industry to have their life's work in plant and equipment and necessary operating capital, and have the raw material which we need, and in turn the finished products which we manufacture, absolutely controlled

by the speculator who has no investment except the small margin he is compelled to put up.

"We are not in competition with ourselves, or with actual grain men, but we are in competition with the speculator.

"We are confronted with a problem which would require a clairvoyant to be employed as a statistician in our office."

The following statement appeared in the November, 1920, issue of the Modern Miller of Kansas City:

"It is significant that since July exporters have given out that the bottom would fall out of the market and that wheat was going to sell at $1.75. How did they know? What superior knowledge did they have, that would fix a price for such a decline, and yet this prediction has been substantially fulfilled. Did they contemplate propaganda and manipulation? The British Ministry of Food after a world's survey predicted scarcity and higher prices. Mr. Hoover told the bakers that bread prices would be maintained; the farmers held for $3 wheat; the millers held no such opinion of prospective market declines; but the wheat exporters proclaimed the bottom would fall out of the market.

"Who will say, that without trading in December wheat, prices would have tumbled in such violent shifts as noted the past three weeks? And why should those who were buying and shipping wheat in the most spectacular way and on such a vast scale predict that prices would decline? Heretofore, the knowledge of unprecedented exports would have put the market up.

"The millers were not buying or selling futures, having nothing to hedge; the general public was not in the market; the corner was taboo and the market susceptible to selling pressure.

"Gov. Allen has interpreted this as manipulation to the detriment of farmers; millers favor abolishing future trading because cash wheat ranged from 12 cents to 25 cents above wheat for December delivery. Flour trade was demoralized.

"This is the net result of opening the wheat market to trading in futures.

"It has taken form as a deadly thing in the estimation of millers. Trading in futures can only be justified as a means for commerce, the purchase of supplies for actual future delivery."

FACTS ABOUT HEDGING.

The Chicago Board of Trade contends that hedging is necessary and that any interference with unlimited speculation will destroy hedging.

Hedging, as defined by the Federal Trade Commission, "is the term commonly applied by the grain trade to the method employed by many dealers in cash grain of protecting themselves against losses due to market fluctuations by executing with cash purchases and sales practically simultaneous future transactions upon the opposite side of the market. This is done upon the assumption that the price of cash and future grain will move up and down together and that as the trades are on opposite sides of the market the decline or advance of either will be compensated by a corresponding fluctuation in the other. While this theoretical harmony in the movement of cash and future prices is not always to be found and the coincidence of the two movements is often more or less seriously disturbed, it is none the less well established that, broadly speaking, cash and future prices actually do move up and down together with considerable regularity, if not in the same degree."

In other words, the country elevator manager may sell each day's purchases by wire on the future markets. Then when he sells the actual cash grain he buys in his hedge, and thus he has to some extent protected himself from loss by reason of price fluctuations.

The board of trade makes much of this hedging feature of the exchanges, in fact, it bases practically its entire defense of future trading on this so-called insurance feature.

In other words, the board of trade, having established an exchange where 18,500,000,000 bushels of fictitious grain are bought and sold each year, and where, as we have shown, that stupendous volume of future trading is used to manipulate the market up and down, defends that system by stating that hedging is necessary as a protection against those very fluctuations that future trading is largely responsible for!

It is much the same as saying that a chicken-eating dog must be allowed to run loose to keep thieves away from the poultry house.

HEDGING AS INSURANCE.

In order to understand hedging we should have a clear understanding of business risks and of insurance. Risk is always a factor in ownership and can not be separated

"I visited the farmers' elevator at Hudson, Ill., and found, through manipulation and trading in options that this company had sustained a loss of $15,000. Upon further investigation of the farmers' elevator at Lahogue, Ill., I found that they lost the entire value of their elevator through short selling and speculative trading on the market. I visited Darrow, Ill., and found that the farmers' elevator there had experienced a severe loss through the same cause. I also found that the farmers' elevator at Kempton, Ill., had, through speculative trading, recently lost $10,000, and that the farmers' elevator at Easton, Ill., had recently lost $45,000 through speculative short selling.

"I found that the farmers' elevators at Fairbury, Cropsey, and Somanauk, where they have never made a practice of hedging or short selling, are in splendid condition. The managers of these companies say they have no desire to hedge and that they would have no difficulty nor have any losses if the railroad companies would give them an equitable supply of cars. I found where managers are not permitted to speculate under the companies' by-laws that the companies are in good financial condition.

"Summing up my investigations, I am quite sure that future trading in grain is a dangerous practice and should be regulated by rightful legislation."

Senate bill 284 does not provide for the elimination of hedging, however, but permits the actual owner of grain to sell it for future delivery. The board of trade contends that to prohibit or limit speculation in futures will automatically make hedging impossible. Maybe so, but we are inclined to agree with Benjamin Drake, of the Equity Cooperative Exchange of St. Paul, when he says (testifying before the Agricultural Committee of the United States House of Representatives):

"Instead of meeting the issue frankly, the defender of future trading avoids it by turning to the discussion for hedging—the one-thousandth part of future trading that can logically be defended. He talks fluently of the benefits of hedging, and then sets up the humorously illogical claim that it is necessary to preserve indiscriminate gambling in grain in order to preserve a broad elastic hedging market."

Mr. Drake further says:

"Judging from the facts obtainable, the bulk of these future contracts come from men not engaged in the grain business at all. Carefully contrived market news is ticked off the ticker every minute. Sure tips are freely circulated. The imagination of the sucker is aroused, his activity stimulated, and he takes a flyer in wheat. He may be a lawyer, doctor, farmer, a minister of the gospel—all are welcome, the money of each is accepted. Bankruptcy and financial ruin may follow, often do follow, but in any case, win or lose, the board of trade member makes his commission."

The claim that speculation in futures exists solely to provide hedging facilities is upset by the following quotation from Rollin E. Smith, of the United States Bureau of Markets:

"During the present winter cash wheat has been at a big premium. On one day in December, for example, in the Chicago market, Nos. 1 and 2 red winter wheat sold at $2.04, and Nos. 1 and 2 hard at $1.79, while at the same time the December future was $1.69, the March $1.64, and May $1.58. Under such conditions hedging was quite out of the question, yet speculation was going on in the pits just the same as though there was a hedging market to be assisted by the volume of speculative trades."

The imperfections of hedging as a protection to the country elevator are well illustrated by the history of the wheat and corn markets on the Chicago Board of Trade for the past several months.

During the winter, cash wheat prices were continuously higher than the March and May futures. That is, cash wheat was at a premium; but cash corn prices were under the May future (there was no March future for corn), or at a discount.

During December, Nos. 1 and 2 red winter wheat were at a very big premium over March. About the middle of the month they were 40 cents over March and 46 cents over May. At the same time Nos. 1 and 2 hard winter were 15 cents over March and 21 cents over May.

In the last half of December May wheat was 5 cents lower than March. Throughout January, the May future was 10 cents and 12 cents under March and during February 10 cents under. Hedging in the distant future was therefore more hazardous than in the near-by month.

About the middle of January No. 2 red winter wheat on the Chicago Board of Trade was quoted at 30 cents to 33 cents over March, and No. 2 hard 8 cents to 11 cents over March. A week later the premiums declined to 16 cents to 21 cents and 5 cents to 7 cents, respectively, for the two classes of wheat. In the Minneapolis market about the middle of January No. 2 dark northern was quoted 16 cents to 18 cents over Minneapolis March, and at Kansas City No. 2 dark hard 4½ cents to 7½ cents over Kansas City March.

Obviously, under such market conditions country elevator companies had no protection against price declines, for there was no hedging market. That is, the country buyer had no protection if he bought wheat on the terminal market basis—the terminal market price less freight and the other necessary charges. For example, about the middle of January No. 2 red winter broke 12 cents to 14 cents or from 30 cents to 33 cents over Chicago March to 16 cents to 21 cents over, without any decline in the March. Country dealers having any of this wheat on hand, if they had bought it on a basis of the Chicago price, would have lost 12 cents to 14 cents a bushel on it. Hedging would not have protected them.

While the board of trade contends that the purpose of future trading is to provide hedging facilities, the present heavy volume of trading in July wheat futures is worth noting. The July cash market is a new crop market, and there is now no new wheat in existence to hedge. Many students of the market contend that the only purpose of speculation in July wheat in April and May is to depress the price of the last end of the old crop. Certainly that is its effect.

THE OPEN BOARD.

There are two boards of trade in Chicago. Just across Sherman Street back of the "big board," is the open board of trade, often referred to as the "job-lot board." No cash trading is done on the open board, and so far as can be learned not much hedging.

"It appears that only a very small percentage of the business is country business of any sort," says the Federal Trade Commission in volume 5 of its report and adds: "The reason for the existence of the open board appears to be historical rather than its present functional significance."

As a matter of fact, certain members of the big board habitually refer to the open board as a "bucket shop." It is really a place where the public can gamble more cheaply than on the big board, and more safely than on a roulette wheel. "It should be noted," says the Federal Trade Commission, "that it costs only a dollar to take a chance on a job lot privilege."

The commission adds that: "The quality of customers attracted by the open board is not high, at least as rated according to external appearance of financial standing on the part of those present in offices and on the floor."

As a matter of fact, there are few places in Chicago where as much tragedy is concentrated under one roof as in the Chicago Open Board of Trade. You can there hear stories of broken homes and of fortunes gambled away. You can see the hopeless, strained faces of men who have staked their week's pay on the chatter of the ticker, connected by a private wire with the larger and more respectable gambling house across the way.

The depths to which the open board has gone in its quest for gambling profits is hinted at in another paragraph from the Federal Trade Commission report:

"It appears that brokers on the open board not long ago had to be restrained from seeking speculative trades of women."

The plain truth is that in the heart of Chicago, legalized by the State of Illinois, the open board of trade maintains a gambling joint which serves no useful purpose whatsoever, and which is more demoralizing to the morals of its patrons than the Louisiana lottery ever was.

Surely we are a long ways away from insurance.

THE PRIVATE-WIRE SYSTEM.

Radiating out from the Chicago Board of Trade—the big board—is a system of private wires that can serve no useful function if we are to accept the statement of the board that the only purpose of speculative trading is to provide hedging facilities.

"There is no great commercial need of keeping the country elevator manager informed of fractional fluctuations in prices during the day," says the Federal Trade Commission. "They will not ordinarily affect the price he makes to the farmer, and it is perhaps better not to have his attention distracted from his managerial duties by having thrust upon him the question whether he shall try to sell on a slight advance or wait a few moments more."

If, on the other hand, the purpose of these private wires is to carry the news of market fluctuations to small towns the moment they occur, to stimulate the gambling spirit of the hangers-out at the local wire houses, then we have another story.

"The distinctive and conspicuous feature of the atmosphere of a wire-house office is the assemblage of receiving and sending telegraph implements and their operators,"

says the Federal Trade Commission. "This noise, because of its quality as well as its volume, probably contributes considerably to the state of nervous tension which the quotations, as they are hurriedly changed on the blackboard, and the buzz of tickers tend to produce or accentuate in the group of traders or casual callers in the customers' room."

In other words, the atmosphere of a wire house is a gambling atmosphere, as anyone, who has ever been in one, can testify.

The mileage of private wires used mainly in the speculative grain trade, according to the Federal Trade Commission, is 80,000, leased at an annual cost of $2,000,000. Illinois has 94 wire houses in 46 down-State towns. While the board of trade does not like the term, these wire houses are usually referred to locally as bucket shops.

"The great majority of wires were originally leased for the purpose of promoting the future business of the lessee," says the commission. They doubtless still serve mainly that purpose.

"Theoretically, the wire house may be supposed to be used as much for cash transactions as for dealings in futures. Actually, the execution of an order for the purchase and sale of actual grain is not so much a matter of minutes or seconds that a private wire is needed for the purpose. Furthermore, the volume of transactions in actual grain obtainable by a single commission house is not sufficient to support from the commission so carned a private wire between even the most important shipping or distributing center and the biggest terminal market, provided the circuit required is of any considerable length."

The fact that private wires are used mainly for gambling transactions is shown by the commission's figures on the business of one Chicago wire house, which show that its commissions on futures were nearly 30 times as great as on cash grain.

One wire house, according to the commission, is frank enough to ask a prospective customer how much he can afford to lose.

The tendency during the past few years has been for wire houses to take on some cash grain business also. "It is said, with a sufficient element of truth," says the commission, "that the managers of the wire houses saw that arguments against speculation could largely be met if the connection between future trading and the cash grain business were made to be, or to appear, closer than was naturally suggested by the ordinary use made of private wires by board of trade members."

That the wire houses are primarily feeders for the speculative market is shown by the statement of a wire-house operator, quoted in the commission's report, that "through the facilities offered by the private-wire houses a great many more persons are put in possession of facts upon which they can intelligently trade."

The commission states that "the private wires are under a strong temptation to encourage miscellaneous speculation," and adds that "the private-wire house is certainly not a disinterested observer of the growth of future trading, and is doubtless more interested in speculation, because of its greater potentialities, than in hedging business."

Surely we are again a long ways away from insurance.

PUTS AND CALLS.

Another form of gambling on the Chicago Board of Trade is dealing in privileges, commonly known as puts and calls. "In effect," says the Federal Trade Commission, "it is an agreement to offer or accept on demand within some specified period (a day, a week, or a month) a 'future' sale or purchase to a customer to whom the future is sold, the price at which the future is to be transferred being a part of the contract."

In practice it is, according to John Hill, jr., of the Chicago Board of Trade, "the cheapest form of gambling in the world."

The cost of this kind of a bet on a 5,000-bushel lot is only $6.25, including Federal tax. The Federal Trade Commission says that:

"The reference to delivery 'in regular storage' warehouses (in the privilege contract) is verbiage and tends to obscure the fact that the privilege relates only to a contingent future contract. Any consideration of delivery is a degree further removed. The employment of these phrases in this connection, however, doubtless has reference to the legal need of affirming that the contract 'contemplates delivery.'"

Puts and calls have no conceivable relation to hedging. Again, we are a long ways from insurance.

COMMISSION HOUSE SPECULATION.

Not the least of the evils of speculation on the Chicago Board of Trade is the fact that many commission houses, which execute speculative orders for outsiders, also speculate on their own account. This is a practice, by the way, that is absolutely prohibited on the New York Stock Exchange.

To quote again from Rollin E. Smith of the United States Bureau of Markets (Wallace's Farmer, Feb. 11, 1921):

"There doubtless are commission houses whose members do not speculate; in fact, I know this to be true of some. But there are many, the members of which, and some of their employees also, speculate as freely as if that were their chief occupation. The commission business of such companies is only a 'smoke screen' for their own operations in the futures market.

"Furthermore, most of the brokers in the pit, who execute orders for the commission houses, are speculators on their own account—handling orders for the public and speculating for themselves at the same time. Then there are the 'scalpers,' who trade mainly for themselves, but sometimes execute orders for others.

"Speculative commission houses, or commission houses whose members speculate, are one of the big handicaps under which the market is weighted down. It is just as unfair to the public, or outside speculators, for commission houses to speculate as it is for a poker player to look at the hands of his opponents, for such a commission house knows at all times just how its customers stand on the market. The public has just as much chance of winning as a poker player would if he laid his cards on the table, face up. The reason is this: The professional speculator knows from long observation that 95 per cent of the outsiders lose their money. Therefore, the professional—in which class are the speculative commission houses, their employees, and the brokers and scalpers in the pit—takes the other side of the market from the outsiders; not in every instance, of course, but in a large, general way.

"If, for example, as often happens in a bull market, the public gets the speculative fever and buys heavily, this is of course known to the professionals. As the public becomes more and more excited and continues to buy, the professionals gradually sell out their own holdings and then closely watch for the time when the public buying exhausts itself. That will mean the end of the advance. The public is always craziest right at the top, just when they should be selling and taking their profits.

"When the force in public buying has exhausted itself, the professionals begin to sell short. If the advance is checked, they sell more. Soon the market begins to break, and then the professionals 'jump on it'—sell millions of bushels; and a great slump follows. Out of the wreck a few stragglers from the public pull out with a little money left, but 95 per cent of them have left their balances with the speculative commission houses, the brokers, and the scalpers."

THE EFFECT OF RUMORS ON PRICES.

The existence of a great speculative market, where the volume of speculative trading is 57 times the volume of cash trading, and where the market is extremely sensitive to all sorts of rumors, creates a condition where gossip and rumor play an important part in the fixing of grain prices. This benefits no one but the speculator, and is a positive injury to both producer and consumer.

Here is a typical market report taken from a recent issue of one of the Chicago dailies:

"The movement of wheat was erratic, within a range of six cents. Action of values was influenced largely by pit operations. Reports of cold weather with frost in Argentina made a sharp advance early. A break in wheat about midday came on an unconfirmed report that France would be out of the market for the next three months."

Chicago grain men tell us that the board of trade is a wonderfully sensitive machine for fixing grain prices. It is altogether too sensitive.

Why should rumors and unconfirmed reports—nine-tenths of which turn out to be false—fix the price the farmer receives for his grain? If a cylinder head should blow out in one of the John Deere factories, that is not a signal for every dealer to raise the price of plows. A rain in the Mexican rubber districts dosen't bring down the price of automobile tires in the morning, nor does the opening of a new gusher in the oil fields affect the price of oil a few moments later.

The following quotations from an article in the October, 1920, number of the American Magazine, written by an old board of trade operator, Paul S. Worden, illustrate the readiness with which rumors affect the grain market through the medium of unregulated future trading:

"During the war, a man who had sold short some 10,000 bushels of wheat was talking with a couple of cronies one day, and offered to bet that he could put the market price of wheat down 2 cents. They took the bet. The man had been a reporter on a Chicago paper, but had changed his job some time before this happened. He went to a telephone booth, called up a member of a certain firm of brokers, and said:

"'This is So-and-So, of the ————,' naming the paper with which he had been connected. 'We have an unconfirmed report that the Kaiser has committed

suicide,' he went on very seriously. 'Have you received any information about it?"

"'Good Lord, no!' the broker exclaimed. 'Gosh, man, you don't mean it?'

"The practical joker hung up the phone and waited to see what happened. It surprised him as much as it did anybody. The brokerage firm held a consultation and decided to get in on the news. The idea was that the suicide of the Kaiser would mean the end of the war and that prices would go down. They jumped into the market, began selling, and inside of a few minutes wheat dropped 12 cents a bushel. The man who had sprung the joke bought quickly, because he knew it was a fake. He made 3 cents a bushel on his lot. If he had held it five minutes longer he would have quadrupled his winnings.

"Several years ago, prolonged drought and hot winds over the corn belt stirred up a crop scare of unusual proportions. For several days prices went up, up, up, until it began to get monotonous. Dispatches from all directions stated that unless rain came the damage to the growing crop would be irretrievable.

"But somebody happened to telephone to a friend over in the Field Building just at that time, and the friend happened to mention casually that it was raining over there. The man at the phone repeated this bit of news to somebody else, and, presto, it was reported in board of trade circles that it was raining somewhere.

"Thereupon, bedlam broke loose in the corn pit? Panting brokers fought with each other in a wild stampede to sell corn. Traders in the other rings stopped business in amazement. Prices of corn dropped several cents a bushel before the tempest in the pit subsided. And all this happened simply because somebody had seen a little 'stream shower' from a standpipe on the Field Building and called it rain.

"Years ago the market was sent skyrocketing by a clever fake, apparently perpetrated by a farmer out in Iowa, but later said to have been concocted by a famous figure on the board of trade. The Iowa farmer sent in a story about how the wheat crop was being damaged by bugs of a greenish hue which had appeared in great numbers. He added to the impressive effect of his tale by stating that the bugs worked at night. The story got into the papers, and caused an uneasy feeling among traders. This was aggravated when tangible evidence of the new pest began to appear in the shape of paper boxes sent from widely scattered parts of the wheat belt, and filled with the mysterious bugs. Several board of trade houses received some of these boxes of specimens; and the market, anticipating a damaged and reduced crop, sent wheat prices soaring, while pandemonium reigned.

"Then the man who had concocted the fake, and who had cleaned up a pile of money on it, decided to play it both ways. He went short on the market, and proceeded to undo the effects of the green-bug story. He had reports wired in to the effect that the mysterious visitors were the least harmful of all known insects. I guess they were, too; for they were nothing but old-fashioned 'lightning bugs.' But they fooled a lot of people out of a lot of money."

CONCLUSION.

In conclusion, we believe that the passage of Senate bills 283 and 284 will tend to stabilize grain markets, will prevent artificial manipulation of grain prices, and will eliminate gambling in grain; and that all this will be accomplished without injury to any legitimate business.

Senate bill No. 283, 52d G. A., 1921. Introduced by Mr. Lantz, March 30, 1921. Read by title, ordered printed, and referred to Committee on Agriculture.]

A BILL For an act to define, license, and regulate public exchanges.

SECTION 1. Be it enacted by the people of the State of Illinois, represented in the General Assembly: Every association of persons, whether incorporated or unincorporated, comprised of brokers, commission merchants, or traders engaged in buying, selling, dealing in, or exchanging grain, for themselves or for others, which, for the transaction of business between its members maintains or operates a regular place or trading room, is declared to be a public exchange. The place where such business is carried on is declared to be a public market.

SEC. 2. No public exchange shall be conducted or operated in this State without first having obtained a license from the department of agriculture.

SEC. 3. Applications for licenses to conduct or operate a public exchange shall be made to the department of agriculture and shall state the name of the public exchange, the location of its public market (giving street and number), and such other facts as may be required by the department of agriculture to enable it to perform the duties imposed upon it by this act.

SEC. 4. Before any license to conduct and operate a public exchange is issued by the department of agriculture, the applicant shall file with such department a bond to the people of the State of Illinois in the penal sum of $10,000, with sureties to be approved by the department of agriculture, conditioned for the faithful performance of its duties as a public exchange and for the faithful compliance with all laws of this State relative to public exchanges. Such bond shall be renewed aanually.

SEC. 5. Upon the approval of such application and bond, the department of agriculture shall issue a license to the applicant to conduct and operate a public exchange at the location stated in such application.

SEC. 6. Each public exchange shall:

(1) Maintain a public market;

(2) Establish and maintain reasonable rules, regulations, and by-laws for the admission of persons to the public exchange for the purpose of trading, the government of the public exchange, and the conduct of business therein, and file copies of all such rules, regulations, and by-laws, and all amendments thereto, with the department of agriculture.

(3) Admit, without discrimination, all persons conforming to its reasonable rules, regulations, and by-laws to all the rights and privileges of a trader;

(4) Afford equal and uniform facilities to all persons entitled to avail themselves of the privileges of the public exchange;

(5) Maintain open and free competition in the purchase and sale of articles and commodities bought, sold, dealt in, or exchanged on such public exchange;

(6) Keep such records, book, and accounts as may be required by the department of agriculture faithfully and fully to disclose the transactions, business, and contracts made and entered into on such public exchange.

SEC. 7. Any rule, resolution, by-law, custom, usage, or practice of a public exchange is declared to be unlawful, unjust, illegal, unreasonable, or discriminatory which:

(1) Limits, or tends to limit, suppresses, or tends to suppress, destroys, or tends to destroy free and open competition between traders dealing on such public exchange;

(2) Creates, or tends to create, a monopoly or "corner";

(3) Restrains, or tends to restrain, trade;

(4) Gives any person entitled to trade in such public exchange rights and privileges not accorded to or enjoyed by all other traders;

(5) Denies to traders equal and uniform facilities of such public exchange;

(6) Discriminates between traders, producers, or shippers.

SEC. 8. No person shall engage in buying, selling, dealing in, or exchanging articles or commodities in a public exchange without first having obtained a license from the department of agriculture.

SEC. 9. Applications for licenses to trade on a public exchange shall be made to the department of agriculture and shall state the name of the applicant, or, if the applicant is a partnership, the names and addresses of all the partners, or if the applicant is the employee or agent of some other person he shall state the name of such other person, giving, in the case of the partnership, the names of all the partners for whom he is the employee or agent, the location of his office (giving street and number), and such other facts as may be required by the department of agriculture to enable it to perform the duties imposed by this act. Upon the approval of such application the department of agriculture shall issue a license to the applicant to trade on such public exchange in the character or capacity stated in his application.

SEC. 10. The license of any trader to trade on a public exchange may, after notice and hearing, be suspended or revoked when such person shall:

(1) Violate any of the reasonable rules, regulations, by-laws, or orders of such public exchange;

(2) Fraudulently, with intent to injure, damage, or destroy the business of any other trader, refuse to trade with such trader;

(3) Conspire or agree with any other person, whether a trader or nontrader, to injure, damage, or destroy the business of any person admitted to trade on such public exchange.

SEC. 11. The department of agriculture shall charge and collect the following fees:

For issuing a license to conduct and operate a public exchange, $250.

For issuing a license to any person to trade on a public exchange, $50.

SEC. 12. All public exchanges shall be subject to the visitation, inspection, and examination of the department of agriculture.

SEC. 13. The department of agriculture shall make and promulgate such rules and regulations as it may deem necessary effectually to enforce the provisions of this act. It shall, in the enforcement of the provisions of this act, have power to compel by

supbœna the appearance and attendance of witnesses for the purpose of examination and the production of books, records, memoranda, accounts, and documents.

Any person who shall be served with a subpœna to appear and testify, or to produce books, papers, accounts, memoranda, or documents, issued by the department of agriculture, in the course of an inquiry, investigation, or hearing conducted under any of the provisions of this act and who shall refuse or neglect to appear, or to testify, or to produce books, papers, accounts, memoranda, or documents relative to such inquiry, investigation, or hearing as commanded in such subpœna shall be guilty of misdemeanor.

Any circuit court of this State, or any judge thereof, either in term time or vacation, upon application of the department of agriculture, may compel the attendance of witnesses, the production of books, papers, accounts, memoranda, and documents and the giving of testimony before the department of agriculture by an attachment for contempt or otherwise, in the same manner as the production of evidence may be compelled before a court of record.

SEC. 14. Whenever the department of agriculture shall find after notice and hearing, that any rule, regulation, by-law, order or practice of any public exchange is illegal, unjust, unreasonable, unauthorized, discriminatory, or preferential, it shall order such public exchange to rescind or amend such rule, regulation, by-law, or order or to cease and desist from such practice. If such order of the department of agriculture is not complied with within the time fixed therein, the department of agriculture shall apply to a court of competent jurisdiction for an injunction restraining and enjoining such public exchange from enforcing such by-laws, rules, regulations or order from further continuing such illegal, unauthorized, discriminatory, or preferential practice or for such other relief as may be necessary fully to carry out the purposes of this act.

SEC. 15. The department of agriculture shall have power to institute and prosecute all actions and suits, both at law and in equity, necessary, convenient, or proper to carry out the provisions of this act and to compel a public exchange to conform with the provisions hereof.

SEC. 16. Each public exchange shall make reports to the department of agriculture as often as it shall be required so to do by such department. Such reports shall be in such form and shall contain such data as shall be required by the department of agriculture. Such reports shall be public documents.

SEC. 17. The director of agriculture, and all officers, employees, and agents of the department of agriculture duly authorized thereto by the director, shall at all reasonable hours have free access to all rooms and places where trading is conducted in a public exchange. All books, records, documents, accounts, and memoranda kept by a public exchange shall be open to the inspection and examination of the department of agriculture.

SEC. 18. Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not exceeding $25,000, or be imprisoned in the county jail not exceeding one year, or be punished by both such fine and imprisonment in the discretion of the court.

SEC. 19. No person shall be excused from testifying, or from producing any books, documents, letters, accounts, memoranda, or papers in any investigation or inquiry or upon any hearing conducted by the department of agriculture, or in any action or suit, civil or criminal, upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to a penalty or forfeiture. But no person shall be prosecuted or subjected to any penalty, forfeiture, or punishment for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before the department of agriculture or before a court.

SEC. 20. The word "person" as used in this act shall include natural persons, partnerships, firms, joint stock companies, and corporations. The word "grain," as used in this act, shall mean wheat, corn, oats, rye, barley, flaxseed, and like cereals.

SEC. 21. If any clause, sentence, paragraph or part of this act shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair, invalidate, or nullify the remainder of this act, but the effect thereof shall be confined to the clause, sentence, paragraph, or part thereof immediately involved in the controversy in which such judgment or decree shall be rendered.

[Senate bill No. 284, Fifty-second General Assembly, 1921. Introduced by Mr. Lantz, Mar. 30, 1921. Read by title, ordered printed, and referred to Committee on Agriculture.]

A BILL For an act to regulate sales of grain for future delivery.

SECTION 1. Be it enacted by the people of the State of Illinois represented in the general assembly: No contract for the buying or selling of any grain for future delivery shall be made, unless the person selling such grain—

(1) Is the owner, or the duly authorized agent of the owner, of the actual physical property so offered for sale or contracted to be sold; or

(2) Is the owner, or the duly authorized agent of the owner, of grain which, at the time such grain is offered for sale or contracted to be sold, is in actual course of growth and is potentially in existence; or

(3) Is under contract to acquire possession, or is the assignee of a person under contract to acquire possession, at a future time, of the grain offered for sale or contracted to be sold under the terms of a contract for the sale and future delivery thereof previously made with the owner, or the agent of the owner, of such grain; and

(4) Has the bona fide intention to deliver to the purchaser the grain so offered for sale or contracted to be sold.

SEC. 2. No contract for the buying or selling of any grain for future delivery shall be made unless the buyer thereof has the bona fide intention to receive any pay for the grain so contracted to be purchased.

SEC. 3. Any person violating the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than $500 nor more than $1,000, or be punished by imprisonment in the county jail not more than one year, or be punished by both such fine and imprisonment in the discretion of the court. If a corporation shall be guilty of a violation hereof, in addition to such fine, its charter shall be subject to forfeiture at the suit of the attorney general.

SEC. 4. All contracts made in violation of the provisions of this act shall be void.

SEC. 5. Nothing in this act shall be construed to prevent the settlement, by novation, set-off, or by any means customary in the grain trade of contracts for the buying and selling of grain which were lawfully entered into under the provisions of this act.

SEC. 6. The word "grain," as used in this act, shall include wheat, corn, oats, rye, and barley. The word "sale" shall include sales, agreements of sale, options for sale, or purchase.

SEC. 7. This act shall be in force and effect from and after the 1st day of July, A. D. 1922.

STATEMENT OF MR. F. M. CROSBY, DIRECTOR, WASHBURN-CROSBY CO., MINNEAPOLIS, MINN.

The CHAIRMAN. Will you please state your full name and your business, Mr. Crosby.

Mr. CROSBY. F. M. Crosby, manufacturer of flour. I have a very short brief, and it will only take me about five minutes to conclude this.

The CHAIRMAN. Let the record show just what your connection with this business is.

Mr. CROSBY. I am director of the Washburn-Crosby Co., in charge of their grain department. I have been in that department for 21 years.

The CHAIRMAN. At Minneapolis?

Mr. CROSBY. At Minneapolis.

The CHAIRMAN. All right.

Mr. CROSBY. Our opinion can be stated briefly. The millers of the United States grind approximately 600,000,000 bushels of wheat annually.

The miller is the ultimate buyer of 80 per cent of the farmers' wheat.

We submit, first, that the elimination of price interest with such a large buying element is most desirable; second, that such a large purchasing power should be utilized to stabilize wheat prices.

The miller is a manufacturer of flour. His returns should arise from the manufacture and distribution of wheat products, not from the purchase and sale of the raw material.

Purchases of wheat followed by immediate sales of flour to an equivalent or conversely offer no problem. The price of one is based directly on the price of the other. This is the ideal condition.

The real problem then arises in the handling by the millers of wheat bought in excess of actual flour sales or conversely in flour sales made in excess of immediate wheat supplies.

There are two questions involved:

First. Why does the miller buy wheat in excess of flour sales or conversely?

Second. How can this be done without permitting his great purchasing power to interfere with the free reflection of actual values.

The millers buy wheat in excess of flour sales or conversely for the following reasons:

1. Production of wheat is seasonal.
2. Flour demand is periodic.
3. The period of heaviest wheat offerings and heaviest flour demand do not necessarily occur at the same time.
4. The areas of greatest consumption both domestic and export are east of the great fields of wheat production.
5. Seventy per cent of all the flour produced in the United States is in direct proximity to the fields of wheat production.
6. The movement of grain and grain products is from west to east.
7. The miller must buy wheat when offered, otherwise it flows by the mill door and passes to export.
8. The miller must, regardless of immediate flour sales, maintain at or back of milling centers, sufficient supplies to meet future flour demand.
9. He must sell flour when the demand exists, regardless of his ability to buy immediate wheat supplies.
10. The miller must maintain a flow of wheat to his mills in order to insure operation and a flow of flour to consuming points to meet occuring demands, otherwise, continuity of operation would be impossible and insufficient supplies would develop at consuming points from time to time.

How can the miller buy wheat in excess of his flour sales or sell flour in excess of immediate wheat supplies, without interfering with the free reflection of actual values?

We maintain that the miller who utilizes the present marketing facilities and sells a future wheat contract against his wheat purchases or, conversely, purchases a future contract against flour sales, is not interested in the price levels except that they should so far as possible be the same in both cases. It matters little if he contracts at $1, $2, or $3 per bushel, providing his sales of wheat or flour reflect similar prices.

It is clear, therefore, that he is not interested in enhancing or depressing prices and that the volume of his transactions flow through the markets at current prices without interference. His operations are reduced so far as possible to actual manufacturing only.

On the other hand, it is apparent that the miller who does not use the contract facilities and whose position is, therefore, directly affected by the rise or fall of prices, must necessarily possess a very decided

price interest. The volume of his transactions must necessarily become a factor and an important one, in influencing price as his position demands that he should buy at a lowest and sell at the highest levels.

Under our present system of future contracts the margin as between producer and consumer is not only extremely narrow, but lower than in any other country. This is due largely to the features of safety embodied in the present grain machinery, and extended to those who undertake the marketing of our great wheat crop. These features, operating successfully over a considerable period of time, have inspired financial confidence to an extent that makes the advances necessary to move and market the crop readily available.

True, it may be said that the margins as between producer and consumer are just as narrow with those elements who do not use the future contract facilities.

We contend, however, that the existence and use of these market facilities by a considerable percentage exercise the control that maintains these narrow margins and provides the necessary finances on most advantageous terms, and that its elimination would:

First, create added risks;

Second, increase margins;

Third, would drive those elements who do not now possess price interest into a field of operation where that feature becomes an all-important factor.

Consciously or unconsciously, directly or indirectly, the position of the miller who does not use the contract facilities is influenced and controlled by it, and the stabilizing influences of its operation permit the work out of his present-day policies which would be far different without its restraining influence.

If, as we contend, the use of future contracts by the miller is of direct benefit to both producer and consumer in eliminating price interest and influence with such a large buying element, it should be continued.

What, then, are the essential features of a marketing machinery that permits hedging or future contracts?

To say that it is a legitimate operation and should be sanctioned or approved does not in itself give assurance that it is possible.

There must of necessity be that freedom of action that permits selling and purchasing elements of sufficient volume to absorb offers of either, otherwise a narrow market would result, with wide fluctuations attending each sale or purchase.

We are not here to defend any faults that may have crept into the marketing machinery.

For the benefit of all interests these should be eliminated, but on the other hand, it is both unfair and destructive to condemn the good features that are inherent in the structure because of some objectionable features that should be controlled.

It is unfortunate that in the sweeping criticism of to-day many perfectly legitimate transactions are included as pure speculation.

Such condemnation confuses these with manipulation which, properly interpreted, is quite different in effect or purpose.

Manipulation is the dealing in huge quantities not to cover actual transactions, but to produce unnatural and undue influences, either of depression or or advance, thus creating a situation which inter-

feres with the free play of prices and introduces into legitimate operations elements of danger, uncertainty, and hazard.

This statement that I have here simply shows the United States production of wheat on an average for three years, and the grind in this country of 600,000,000 bushels by the millers.

Senator McNary. Mr. Crosby, do you speak the voice of the millers generally of the country?

Mr. Crosby. No, sir. As Mr. Tator has stated, many millers do not hedge.

Senator McNary. That article is in favor of permitting present conditions to endure; you do not want your structure torn down because there are some defects or imperfections in it?

Mr. Crosby. Yes, sir; that is the idea.

Senator McNary. I ask you now whether you are speaking generally for all of the millers of the country?

Mr. Crosby. No, sir; I never do that.

Senator McNary. I want to know if your suggestion would meet with the approval of other millers?

Mr. Crosby. Yes, sir; of the northwestern millers.

Senator McNary. That is what I am asking.

Mr. Crosby. The mills in different parts of the country operate differently.

Senator McNary. Have you read this bill?

Mr. Crosby. Yes, sir.

Senator McNary. Are you in favor of it?

Mr. Crosby. On the general basis——

The Chairman. Now, Mr. Crosby, will you take up the bill and tell us what you think is wrong about it and what you think is good in it, if anything?

Mr. Crosby. I think, Senator, our objection to the bill is to the feature of governmental control.

The Chairman. Do you not want any governmental control?

Mr. Crosby. We do not have the slightest objection to supervision.

The Chairman. What is the difference between "control" and "supervision"?

Mr. Crosby. Well, may I point out its effect upon our own company, for instance?

The Chairman. Yes.

Mr. Crosby. And translate it into our own transactions?

The Chairman. Well, I suppose you would take that viewpoint, naturally.

Mr. Crosby. I was discussing with the president of our company about two weeks ago this bill, and if it was passed what would be the thing for us to follow next.

On the 1st of December it is customary for us, and we ought to have, at Buffalo for the mill there large stocks of wheat. We can accumulate that during the fall movement of wheat. We select our wheats and grade them at the mill there, and on account of its location it is easier to put that down and ship it during the open season than after the freeze up. Many times those deliveries of wheat are not sold in the form of flour, but by hedges. They are sold in Chicago, Duluth, or Minneapolis.

The Chairman. You mean you sell the wheat yourselves?

Mr. CROSBY. No, sir; we buy the wheat. If the flour sales are not sufficient to leave a balance, we will probably sell an adequate proportion. If we had, say, 5,000,000 bushels of wheat at Buffalo and 2,500,000 were sold in the form of flour, we would have sold in one of the markets 2,500,000 bushels of future contracts of May or December.

The CHAIRMAN. Does that actually take two and a half million bushels of wheat away from you?

Mr. CROSBY. No, sir; because we would buy that back and sell the flour from day to day.

The CHAIRMAN. When you store that wheat there the wheat is never physically disposed of; you use it?

Mr. CROSBY. We never deliver wheat back.

The CHAIRMAN. No.

Mr. CROSBY. We always buy.

The CHAIRMAN. The wheat you buy you grind?

Mr. CROSBY. We grind it.

The CHAIRMAN. And the wheat you sell——

Mr. CROSBY. We buy it back when we sell flour.

The CHAIRMAN. That is a future deal.

Mr. CROSBY. That is a future deal.

The CHAIRMAN. In which no actual transfer of the wheat itself takes place?

Mr. CROSBY. We have taken the deliveries off for a great many years. We have taken a million or a million and a half bushels from the farmer——

The CHAIRMAN. You are opposed to governmental control?

Mr. CROSBY. No; may I continue that?

The CHAIRMAN. Yes.

Mr. CROSBY. If we were to take that amount of wheat off under normal conditions that was placed in Buffalo, and for some very proper reason the Secretary might say that we must close in Chicago, that there has been some manipulation there, we would be in the innocent position of having 2,500,000 bushels of wheat sold, and the question is how we are going to get out of those contracts, and whether the fear of that thing would not keep us from taking that amount of wheat and shipping it from time to time as it is needed.

The CHAIRMAN. You find that in the regular operation of your business it is necessary for you to buy and sell on the futures market?

Mr. CROSBY. Unless we were convinced that we could tell the low point, when to buy wheat. We have never been able to do it yet, sir.

The CHAIRMAN. But not only buy, but you sell on the futures market.

Mr. CROSBY. Yes; but we have to take the wheat when it comes forward.

The CHAIRMAN. Of course, you have to take the wheat when it is delivered to your mills.

Mr. CROSBY. It depends upon how far the mill is from the wheat fields.

The CHAIRMAN. Do you think there are any evils in the grain market situation to-day?

Mr. CROSBY. Yes, sir; unquestionably.

The CHAIRMAN. What the committee would like to have you do is to tell us what those evils are and how we can remedy the evils.

Mr. CROSBY. That is a pretty big job, Senator, but I would like to go back and say, for instance, that if flour buying was going on regularly throughout the year at the same time in each year it would be a simple problem. We could buy wheat to offset the flour selling. The trading would be a simple problem.

In this statement I have taken five years here, having taken the last of November and the first part of December, when our wheat crops are heaviest, and I can show that the flour buying does not come heavy at the same time.

The CHAIRMAN. I think we understand that.

Mr. CROSBY. I have a short statement of that here. Shall I simply present it?

The CHAIRMAN. Yes; you can put that in, or you can read it, if you prefer.

Mr. CROSBY. I would like to read it, sir.

The CHAIRMAN. All right.

Mr. CROSBY. This is a statement taken at the close of the month, showing the November business in the years 1914 to 1916, inclusive, and the year 1920. This shows the total amount of wheat that we purchased at all points in 1917, 7,436,816 bushels. We had, in addition to that a future contract purchase of 1,000,000 bushels. That morning our net surplus, deducting the flour sales, and adding the flour stocks to our wheat stocks, it was only 5,000 bushels, practically even on the market. In 1914 our wheat purchases were 7,481,000 bushels, and we had futures sold of 777,000 bushels.

In 1913, in other words, the flour buyers had bought a nillion bushels more than we had actual wheat. In 1914 they had bought three-quarters of a million bushels less than we had actual wheat on hand.

In 1915 we purchased 7,200,000 bushels, and, in addition, we had bought 5,000,000 bushels. We were 29,000 bushels short. We were practically even all the time.

I have used the long and short here to show that there was no speculation on the market. We have no interest in the price level.

In 1916, we bought 8,500,000 bushels and sold 3,280,000 bushels.

That shows that the flour buying is periodic; it comes at different times throughout the year. It may come from August to November, or it may come in January. It may come, as it did last year, in June and May. That is a very unusual time for it to come.

I would like to introduce that.

The CHAIRMAN. All right.

(The statement referred to by Mr. Crosby is as follows:)

STATEMENT IN ROUND FIGURES.

United States production of wheat 1917-18-19	830,000,000
United States seed requirements	90,000,000
Annual carry over (low)	[illegible]
Available for domestic consumption and export	[illegible]

United States flour mills grind approximately 600,[illegible] wheat available.

EXHIBIT B.—*Wheat stocks.*

	1 Wheat purchases.	2 Future contracts.	3 Total, column 1 and 2.	4 Surplus.	Short or long.
	Bushels.				
Nov. 29, 1913	7,336,816	Bought, 1,004,000	8,340,816	5,126 M	Short.
Nov. 30, 1914	7,481,964	Sold, 777,000	6,704,964	146,556 M	Long.
Nov. 30, 1915	7,205,196	Bought, 5,396,000	12,601,196	29,619 M	Short.
Nov. 30, 1916	8,574,369	Sold, 3,282,000	5,292,369	13,915 M	Do.
Nov. 30, 1920	5,064,484	Bought, 1,196,000	6,260,484	18,928 M	Do.

Column 1 is a statement of wheat purchases in all positions.
Column 2 is a statement of future contracts, sometimes referred to as options, either bought or sold.
Column 3 is the net result of columns 1 and 2.
Column 4 is the amount of wheat short or long after deducting flour sales from the total wheat stocks (column 3) plus flour stocks.

Mr. CROSBY. Now, I would like to introduce this, if I may. This is a chart showing the forward sales of flour. This is an average for the years 1910 to 1914, inclusive, of our sales of flour, based on the months of August, September, October, November, and December. That is, during the wheat moving period, the flour being sold and delivered within 30 days, 60 days, 90 days, 120 days, 150 days, and 180 days, and so on, throughout the year.

To my mind, if flour can be sold over long periods when the farmers are moving the wheat, you have taken off of the market that much wheat and the consumer and the producer are brought together at that point.

The CHAIRMAN. Those long lines represent the long sales?

Mr. CROSBY. Yes, sir; incompleted sales. That shows 83 and a fraction per cent.

The CHAIRMAN. By incompleted sales you mean what?

Mr. CROSBY. Sales undelivered.

The CHAIRMAN. Exactly. That is what I want to get at.

Mr. CROSBY. Yes, sir. We delivered in that period 16½ per cent within 30 days, 39.98 per cent within 60 days, and 61.13 per cent within 90 days.

The CHAIRMAN. And in the meantime you were selling more flour?

Mr. CROSBY. That is the total average sale for that period.

The CHAIRMAN. Oh, that is the average sale.

Mr. CROSBY. That is the average sales, all aggregated and divided into the number of days before they were shipped. Now, the flour buyers, of course, are forced to buy these forward shipments if you have a stable market. There is nothing, to my mind, so unfortunate in the milling business as an erratic market.

The CHAIRMAN. I think that is the way the committee feels about the grain marketing system. If you can do anything to stabilize it, we want to do it.

Mr. CROSBY. I think there is no question about that.

The CHAIRMAN. I suppose everybody wants to do it, except the speculators. Now, to get back to a practical proposition. Mr. Crosby, the question with us is how we ought to change this bill to eliminate the evil, and not injure the honest dealer.

Mr. CROSBY. If I might go back to the question of personal trading again, I think very frequently the lack of speculation makes a narrow market. I could give you an instance of that.

My job for the last 8 or 10 years has been the responsibility of keeping even. For many years I did buy all the wheat, but I have been respensible for the stock and the hedging during the last few years. I do the actual ordering myself, although I never made a trade in the pit myself. I would go to brokers or wire.

This year particularly we have had a very abnormal time. If I would get an order to buy or sell a 10,000 lot, the message would come back, "Sold 5,000, working," and I might get a message within 5 or 10 minutes later showing that there was a cent to 3 cents range. That has happened in Winnipeg, and in Chicago. It happened in Senator Capper's market in Kansas City.

To my mind, that shows that when you give an order to either buy or sell and there is not a sufficient volume of speculation, the small order would force the market down.

The CHAIRMAN. Then, as I understand your argument, Mr. Crosby, you are making the argument that there is not anything wrong with this system?

Mr. CROSBY. Oh, no, sir.

The CHAIRMAN. Yes; you concede that there is something wrong. Now, let us get at what is wrong.

Mr. CROSBY. I think the country demands, undoubtedly, that there should be supervision of the markets.

The CHAIRMAN. Are you opposed to this bill, or are you in favor of it?

Mr. CROSBY. Not in certain particulars, sir. I would be opposed to giving one man this authority, although it would probably work out all right under the present Secretary.

The CHAIRMAN. What we would like to have you do is to point out what is wrong and what is not wrong.

Mr. CROSBY. It is simply a matter of verbiage, I think, in section 4, line 22.

Senator MCNARY. Line 22 or line 23?

Mr. CROSBY. Lines 22 and 23. I wonder whether that section would prevent bucket shops.

The CHAIRMAN. In the first place, let me ask you if you want to prevent them?

Mr. CROSBY. Yes, sir.

The CHAIRMAN. You think they should be prevented?

Mr. CROSBY. Oh, decidedly.

Senator CAPPER. By bucket shops you also mean what they call private-wire houses?

Mr. CROSBY. Up in our section of the country I do not see that the private wires do any good. Of course I am not familiar with it in other sections. Down in Iowa and in Chicago they are a material benefit in the actual moving of the crop. With us it is quite a different problem.

The CHAIRMAN. Refer to that again. I do not understand your reference. I think you are wrong about that.

Mr. CROSBY. I wonder whether this would be better, if you made it:

* * * made at on or in an exchange, board of trade or place of business——

Senator MCNARY. Including the bucket shop?

Mr. CROSBY. It seems to me it would cut out all of that, and make it impossible for any other place to do it. It certainly would make it impossible for bucket shops to exist.

Senator MCNARY. As I get your point, it is that by using the words "or in an exchange, board of trade, or similar institution," you might not include bucket shops, but if that designation of those institutions were left out entirely it would include all. That is your point, is it not?

Mr. CROSBY. Yes, sir.

Senator MCNARY. Then, you suggest that after the word "delivery" on page 2, line 21, you would omit——

Mr. CROSBY. I would omit that.

Senator MCNARY. All down to the word "except"?

Mr. CROSBY. "Except."

Senator MCNARY. So that section 4 would read:

That in addition to the taxes now imposed by law there is hereby levied a tax of 20 cents a bushel on every bushel involved therein, upon each contract of sale of grain for future delivery, except

subdivision (a).

Mr. CROSBY. That is right.

Senator MCNARY. So that there would be no specific statement, but it would be a general statement to include all.

Senator KENDRICK. Is it not your idea, Mr. Crosby, to limit the operations to boards of trade and exchanges?

Mr. CROSBY. No, sir; no, sir. For instance, if, as millers, we were buying grain anywhere in the country, I do not believe this bill contemplates restricting our buying from the producer anywhere. We are exempted, as millers.

The CHAIRMAN. Take these private wires. Could they carry out any contracts made by virtue of those private wires? Is it not necessary that they be carried on through a board of trade? In other words, if you limit the board of trade and tax its operations in futures, would not that include the private wires? Is not that one of the instrumentalities of the board of trade?

Mr. CROSBY. Not with us—not in the northwest. Our private wires practically do not exist.

The CHAIRMAN. Well, you do not have them?

Mr. CROSBY. We do not have them.

The CHAIRMAN. Then, this does not have any application up there?

Mr. CROSBY. My idea is to prevent the bucket shop from existing.

The CHAIRMAN. The question I am asking is just to get light on it, and it is this: Are these private wires operated in connection with the board of trade out there?

Mr. CROSBY. Many of them, undoubtedly.

The CHAIRMAN. Are there some of them that are not?

Mr. CROSBY. The bucket shop. to my mind, is not connected at all with the board of trade.

Senator MCNARY. Would it be, in your opinion, a similar institution to a board of trade?

Mr. CROSBY. I do not think so, Senator. A bucket shop is not a similar institution. It is simply a blackboard transaction, where there is no trading at all.

The CHAIRMAN. All right. Now, take up anything else you want to suggest.

Mr. CROSBY. Drop down to page 3, section (a). I think there should be——

The CHAIRMAN. That is line 19?

Mr. CROSBY. Line 20.

The CHAIRMAN. Line 20.

Mr. CROSBY. Weighing, inspection and storage facilities.

"When located at a terminal market upon which cash grain is sold in sufficient volumes"—I think the weighing and inspection should go with that.

Senator MCNARY. Where is that?

The CHAIRMAN. That is subdivision (a) of section 5.

Senator MCNARY. Yes; but I want to know where you want to insert it.

Mr. CROSBY. I have not made any attempt to do that. I have simply made a memorandum, "weighing, inspection and storage should be part of the terminal markets."

The CHAIRMAN. You would include in the description of the terminal market——

Mr. CROSBY. Weighing facilities, inspection facilities, and storage facilities.

The CHAIRMAN. What else?

Mr. CROSBY. Then, on page 4, sir, in (d), we have just as much fear of manipulation as anybody, and we have just as little knowledge about it. I think there should be a stringent law against the manipulator, with the power in the Secretary of Agriculture to investigate and carry forward what would eliminate it.

The CHAIRMAN. It is necessary for me to go to the Senate now, and I will ask Senator Capper to take the chair.

Mr. CROSBY. As I was saying, the sensitiveness of those who buy wheat for speculative purposes—I am talking now about a man who is not in the grain business—is such that those things have only come to my knowledge a few times. I have known some men, men of means, men who have practically retired who, when they thought wheat was cheap, would go in and buy some, or, if they thought oats were below the cost of raising them, they would go in and buy some as an investment; but they never would want anybody to know about it. I happened to hear about that once or twice, because it was not profitable, and they came and asked me my opinion about it, and I joked with them a great deal about investing in that way.

I am wondering how much the fact of publicity here would deter those actual buyers. I think we have to have buyers in the market. In our section of the country the wheat is moved largely from September to December, and a man with money to buy the wheat is a valuable asset to the market and to the producer, and I think unquestionably the Secretary of Agriculture should have the power to investigate and direct publicity against the manipulator, but I think it would be a mistake, in the case of a man actually buying in quantities, which would not make him a manipulator, but an investor, to have his name published.

Senator KENDRICK. It is your idea that these people were denied the right to operate or discouraged, we will say, from operating, there would be a limitation to the market?

Mr. CROSBY. I am just wondering, Senator. I do not know whether those problems are all theoretical. I do not think you can ever prove that. I think the markets have been very narrow this year.

Senator KENDRICK. What was the experience during the time that trading was suspended?

Mr. CROSBY. They had a guaranteed price from the Government. We knew what our risk was.

Senator KENDRICK. And that made practically an even demand?

Mr. CROSBY. A very stable demand.

Senator NORBECK. That was a very satisfactory situation?

Mr. CROSBY. Oh, from a milling standpoint; yes.

I question very much the advisability of too much publicity, unless manipulation developed. Then, I think that hanging is too good.

Senator NORBECK. If that is true, do you think there should be lodged in the Secretary of Agriculture some discretion as to how much publicity should he had?

Mr. CROSBY. So far as manipulation is concerned, I think that would be entirely proper, but I would hate to have the secretary, in publishing the facts, state that we had a million and a half bushels of wheat hedged in a certain market. It would cost us money to get out of it—unless we were the offending parties. Then, of course, there is no question about it. We never do have long or short accounts of any quantity.

The question that Mr. Murray raised yesterday rather startled me. As I understand it, that was whether, if we should have trades in the board of trade, and the secretary should suspend it, would we not be compelled to pay 20 cents a bushel in closing out those contracts, because any trading in any market that is not a designated market there is a 20-cent tax, and we would be compelled to close our trade in that market after it had ceased to be a designated market. I do not know whether that is the intention of the bill or not.

Senator CAPPER. No; that is not the intention of the bill.

Mr. CROSBY. That, to my mind, would be a very important factor, in getting out of those trades, as to whether we would go into them or not. We would like to have those large stocks, of course. Of course, it is an advantageous proposition, but if those things were uncertain, we would not take on so much wheat.

Then, of course, I object to the placing of the entire grain business in the hands of any one person. I think it is going back to governmental control of business, which we had hoped we were getting away from. We have no objection to the supervision of the markets, with proper regulations.

Senator CAPPER. Well, that is not what is attempted in this bill.

Mr. CROSBY. But, Senator, the secretary can revoke your license in 15 days.

Senator CAPPER. Well, he would have no reason for any action of that kind.

Mr. CROSBY. Yes; but the mere fear of being subject to damages is such that you are condemned before you start.

Senator KENDRICK. Have you any suggestion to offer as to the modification of that provision?

Mr. CROSBY. No, sir.

Senator KENDRICK. So that it would be less dangerous?

Mr. CROSBY. No, sir; I have not any suggestions to make.

Senator CAPPER. We now have governmental supervision of the banks, which seems to work very satisfactorily, and we do not hear any complaint along the lines that you have suggested might arise in this case, do we?

Mr. CROSBY. I think that is quite different. I do not know much about the banking business; but in trading on the grain exchanges, a great many trades are made for three or four months in the future, with a possibility of their being closed out. The Secretary might be mistaken in his action, but by that time the damage would already be done.

I think they are heartily in sympathy with the elimination of manipulation. A man should not be permitted to deal in these large volumes. If by supervision of the Secretary the penalty should fall on that man, I do not think you would have manipulation, at least, then. Supervision is all right, but the ability to close a market place is a thing that startles us.

Senator NORBECK. On account of the loss that would result on existing contracts, especially?

Mr. CROSBY. Yes, Senator. I doubt if we would attempt to carry large stocks with those hedges.

Senator KENDRICK. It is your idea, Mr. Crosby, that just to raise the question of suspending the operations would do the damage, without even carrying it into effect?

Mr. CROSBY. It is a question whether it could or not, Senator. I do not know.

Senator CAPPER. Do you think the Secretary of Agriculture could go very far in his supervision if he had no authority?

Mr. CROSBY. He has there the authority of investigation, to go into the books.

Senator CAPPER. You would simply deprive him of his authority to suspend?

Mr. CROSBY. I think so; yes, sir.

Senator CAPPER. That is your objection?

Mr. CROSBY. Yes, sir; that is my objection here, that before you would have a chance to have a hearing you would be put out of business, and the whole thing would be in a panic.

Senator NORBECK. Might that not be avoided in part by a provision in the bill that it should not affect outstanding contracts?

Mr. CROSBY. We sometimes will have flour stocks sold in the form of wheat futures. The flour sales are required to keep the mills going. We will continue to grind and place the flour in the warehouses throughout the country, and we would be in the embarrassing position of having flour on hand and wheat sold, which is a legitimate transaction. I think the hearing should occur before the market should be put out of business.

Senator KENDRICK. Is it your opinion, Mr. Crosby, that a great volume of business or the aggregate of the transactions affects the actual price of the wheat that is paid the producers of the country, or the price that is demanded of the consumer for the finished product? Do you think it affects adversely those two factors?

Mr. CROSBY. I think that is true, Senator. If we did not have the opportunity of selling what we buy, we would bid very much lower

prices, because every time we were buying a bushel of wheat in excess of our flour sales we would be wondering whether we were buying it cheap enough. I think we would then be primarily interested in the prices, and that is where I differ radically with Mr. Tator. If we were to buy, we would buy just as cheaply as we could. Our stocks of wheat must necessarily be large. We would try to buy as cheaply as we could. Now, we do not care whether it is $1 or $2 or $3, but we must not buy our wheat over our competitors.

Senator KENDRICK. In other words, when you reduce the security you reduce the percentage you require as profit—not in the rise and fall of the wheat at all. Yes. You are perfectly willing to buy the wheat and sell it at the same price, so far as any profit goes on that?

Mr. CROSBY. We would rather have high prices, a satisfactory price to the producer, because we want more wheat, and we want the prices sufficient to induce them to produce the wheat.

Senator CAPPER. What have you observed in the way of efforts on the part of boards of trade at Minneapolis, Chicago, or any other city to remove the evils that you say do exist in the grain trade, and which are complained of by the trade and by the public?

Mr. CROSBY. Well, Senator, the evil that is most talked about is this one of the manipulation. The manipulator is a very hard man to know. I think, as a matter of fact, the returns to the producer, due to competition on the Minneapolis exchange, are beneficial to the producer. Now, another situation might be developed to bring more returns. I do not know; it is a grave question in my mind whether it can be done; but if it can be done it would show in the actual working out in this new grain corporation. If it is able to handle its own grain, it might be able to work it out. I do not think anybody can tell that.

Senator CAPPER. Has the Minneapolis Board of Trade sought to do this manipulation?

Mr. CROSBY. We have a rule to prevent corners, of course, but the trading in Minneapolis is not of very large volume, Senator, as compared with Chicago, for instance.

Senator CAPPER. Well, do you know of any efforts on the part of the Chicago Board of Trade to solve that problem of manipulation?

Mr. CROSBY. The problem of manipulation, I think, has been discussed more since the hearings in Washington than it was before.

Senator CAPPER. Discussed by the board of trade?

Mr. CROSBY. Discussed by the board of trade; yes. I have been rather fearful of such things going on, but I have had no knowledge of it. I have no reason to believe that any certain individual was doing it. I have heard a great deal more about it since these investigations started; just rumors and gossip.

Senator CAPPER. Are there any other questions that the members want to ask Mr. Crosby?

(No response.)

Senator CAPPER. That is all, Mr. Crosby. We are very much obliged to you.

I think we had better adjourn here until to-morrow morning.

Mr. TEMPLETON. Mr. Senator, I have a statement to make. It will only take me a minute. I just want to go on record here, and I will be very brief.

Senator CAPPER. All right, then, go ahead.

(The chart previously referred to is here printed in full, as follows:)

WASHBURN-CROSBY CO.

Percentage of an average month's flour sales delivered by 30-day periods, based on average of August, September, October, November, and December, for 5-year period, 1910–1914, inclusive.

Periods.	Flour sold and delivered.	Flour sold and not delivered.	Periods.	Flour sold and delivered.	Flour sold and not delivered.
30 days	16.50	83.50	240 days	96.50	3.50
60 days	39.98	60.02	270 days	97.91	2.09
90 days	61.13	38.87	300 days	98.91	1.09
120 days	76.28	23.72	330 days	99.50	.50
150 days	85.88	14.12	360 days	99.79	.21
180 days	91.28	8.72	390 days	100.00	
210 days	94.54	5.46			

STATEMENT OF MR. R. A. TEMPLETON, REPRESENTING THE MILWAUKEE CHAMBER OF COMMERCE, MILWAUKEE, WIS.

Mr. TEMPLETON. I want to enter the representation of the Milwaukee Chamber of Commerce. I simply want to register our protest against this portion of the bill that is before the Senate at the present time, more forcibly against Government regulation.

I, myself, am personally in the grain commission business. We represent large interests in the West in the way of cooperative shippers, as well as other shippers, both in executing their hedges and handling their cash grain, and we find in our trade that there is a very large proportion of our customers and shippers that use the hedging market continually in executing their business at the local town in which they may be.

Senator CAPPER. You understand that this bill does not attempt to eliminate the hedging proposition?

Mr. TEMPLETON. Very well, but there is control, Mr. Senator, lodged in the hands of one man to suspend at any time that he may see fit under this present bill.

Senator CAPPER. Do you think that the Government should keep off of the grain trade?

Mr. TEMPLETON. Yes, sir; I do, in that portion of it.

Senator CAPPER. Are there any evils now that come to your notice in the grain trade?

Mr. TEMPLETON. Possibly there are. No doubt there are evils in all lines of business, and there undoubtedly are evils in the grain option business.

Senator CAPPER. Has your board of trade made any effort to eliminate them?

Mr. TEMPLETON. Most assuredly; yes, sir.

Senator CAPPER. What have you done about it?

Mr. TEMPLETON. We have passed rules to prevent anything of that caliber that might occur in our chambers.

Senator CAPPER. Have you ever suspended any member for manipulation?

Mr. TEMPLETON. No, sir; we never have had any occasion to.

Senator CAPPER. There is no complaint at all in regard to the methods employed on the Milwaukee Board of Trade?

Mr. TEMPLETON. No, sir; none at all.

Senator CAPPER. Do you think the producers up in that section are entirely satisfied with the system employed now?

Mr. TEMPLETON. I do; very much so; yes, sir.

Senator CAPPER. Then you have a different situation there from the situation in any other section of the country?

Mr. TEMPLETON. You understand, of course, that we are not of the magnitude of either Minneapolis or Chicago, and we do not have the volume of trade that they do. We are a shipping market. We buy a large amount of grain in the West and market it in the East, and it is used almost exclusively as a hedging market. Milwaukee has very little of what you term speculation.

Senator CAPPER. I think if the other grain exchanges were run as yours is there really would not be such a demand for legislation of this kind, as there seems to be all through our section of the country at any rate.

Senator KENDRICK. Is it your opinion, Mr. Templeton, that any kind of legislation would prove harmful?

Mr. TEMPLETON. Well, that is a question that I rather think, Senator, there are exceptions to. As to our individual exchange, I am unable to see where any legislation is really necessary. I am only speaking, you understand, for Milwaukee, not for other outside exchanges. As I have previously stated, we are a small market as compared to the others, and practically all of the business that is done in Milwaukee is a hedging proposition, and we would very much regret to see any interference with the system that we have at the present time, so far as Milwaukee is interested in it.

Senator KENDRICK. It has been stated here by witnesses that there is danger of arbitrary action on the part of the authorized agent of the Government, say, the Secretary of Agriculture, and I wonder, as Senator Capper has pointed out, if any of those who have anxiety on that point have any information as to where any Government official has acted arbitrarily in connection with the institutions over which the Government itself exercises authority?

Mr. TEMPLETON. Well I would rather think, Senator, that this, though an exceptional position, could inflict more serious damage on account of the amount of business that is done in the several exchanges and the amount of money involved, as well as the product that there is. It would have quite some bearing as compared to other Governmental control.

I think that is all I have to say, Senator. I thank you very much.

Senator CAPPER. We are very much obliged to you.

The committee will adjourn until to-morrow morning at 10.30 o'clock.

(Thereupon, at 12.15 o'clock p. m., the committee adjourned until to-morrow, Friday, June 3, 1921, at 10.30 o'clock a. m.)

FUTURE TRADING IN GRAIN.

FRIDAY, JUNE 3, 1921.

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE AND FORESTRY,
Washington, D. C.

The committee was called to order by the chairman (Senator George W. Norris), at 10.30 o'clock a. m.

Present: Senators Kenyon, Capper, Ladd, Norbeck, and Smith.

The CHAIRMAN. The committee will come to order.

STATEMENT OF MR. GEORGE T. McDERMOTT, OF TOPEKA, KANS., REPRESENTING THE KANSAS GRAIN DEALERS' ASSOCIATION.

The CHAIRMAN. Give your name to the reporter and your business and residence.

Mr. McDERMOTT. My name is George T. McDermott. I am a lawyer, living at Topeka, Kans. I am representing the Kansas Grain Dealers' Association, whom I have been representing for about eight years.

I have no technical first-hand knowledge of the grain business, excepting as I have gathered it up in that experience, and since November of last year I have given considerable attention to this bill for them, and have since that time talked to millers and grain men, and others generally.

Senator CAPPER. Does the Kansas Grain Dealers' Association include cooperative associations?

Mr. McDERMOTT. I have these figures here, Senator, and I will give them in just a moment.

Senator CAPPER. All right.

Mr. McDERMOTT. I have a statement here which looks at the thing from every angle. It will take about 12 minutes for me to present this, if it please the committee.

The CHAIRMAN. All right.

Mr. McDERMOTT. After that we can discuss the bill.

The CHAIRMAN. All right.

Mr. McDERMOTT. The Kansas Grain Dealers' Association comprises 612 members, 276 of which are cooperative farmers and elevator concerns. These members own a thousand elevators, or approximately that. They are the small country elevators at the passing sidings which you see as you go by on the limited trains.

The average investment of each one of the members in the elevator and equipment would probably not be over $7,500. Some of the men, of course, own more than one elevator, which accounts for the fact that there are more elevators than there are members.

There are some members who are grain merchants at Topeka, Wichita, Salina, and Hutchinson, who buy from the country elevators. I think there is no member of any board of trade, such as that of Kansas City or St. Louis, that is a member.

This association, many years ago, came to the conclusion, which Mr. Julius Barnes announced on Tuesday before this committee, concerning the cooperative elevator; that is, that they would not carry on a fight against the cooperative elevator. They have been and are admitted to membership, and considerably more than one-third of the membership consists of those associations.

When these cooperative associations first appeared they were not welcomed by the individuals owning these elevators, which came directly into competition in the same towns with the cooperative concerns. The result was that for a time every legitimate effort was made by the owners of private elevators to discourage the cooperative movement. The Kansas Grain Dealers' Association, however, several years ago came to the conclusion that if they were a sound business proposition they would ultimately succeed and should succeed; if they were not, they would ultimately fail and should fail, and that during the period necessary to prove the soundness or unsoundness of the plan there was no justification for fighting them, and, accordingly, they were admitted to membership in the association, and the only fight now carried on is one of service to their respective customers. As I say, the result is that to-day more than one-third of the members of this association are cooperative.

To shortly summarize the position of the association:

First, they are in favor of the general principle of the proposed legislation.

Second, they strongly believe in the system of hedging and the present marketing system. They believe that hedging narrows the margin between producer and consumer and, as far as they are personally concerned, it enables them to carry on business upon a fair marginal profit without being compelled to assume the risk of the fluctuations in prices during the period in which they have been compelled to own the grain.

Third, they believe that there have grown up out of this system certain abuses which might have been corrected by the exchanges but have not been. They believe that such abuses can best be corrected by the exchanges themselves, but that the correction can be hastened and insured by legislation. These abuses are:

(*a*) Manipulation of prices by large operators;

(*b*) The circulation of false reports as to conditions affecting prices of grain; and

(*c*) Unlimited speculation in grain by those who know nothing about the business and who are in fact gamblers.

Fourth, they believe that exchanges have improved in the last 10 years and are improving. As an example as to how legislation helps in this matter, let me cite an instance in which this association was vitally interested. For years dealers on boards of trade in this country had been deducting from each car of wheat 100 pounds in addition to the normal shrinkage. The position of the exchanges was that in addition to the shrinkage there was normally a loss of about 100 pounds that go into the cracks of the cars or were lost in sweepings. The Kansas Grain Dealers' Association tried for years to get the

exchanges to quit this practice of arbitrarily taking a hundred pounds out of every car, the amount being altogether disproportionate to any possible loss in sweeping. Finally about 1901 they secured the passage of a law through the Kansas legislature prohibiting the practice. The board of trade promptly stopped it and, moreover, returned to the farmer all that they had taken by this method for a period of two years prior to the passage of the law. The two years was the statute of limitations for a civil suit. The members of the exchanges are to-day glad that that law was passed. Many of the members had disapproved of the practice long before the passage of the law, but they could not control the majority. The law gave the better thinkers on the exchanges a chance to convince the less enlightened majority. It is believed that the passage of some such law as proposed here will give men who think more clearly than their fellows a chance to control the situation in their boards.

The Derby Grain Co., for instance, could not afford to buy grain on an option and give the man 30 days to deliver it in if the Derby Grain Co. did not in turn hedge its order.

I noticed in the hearings before the House committee that it was constantly said that the small elevator man in the West—not the Northwest—did not hedge his purchases. He does not; but he gets the benefit of it just as much as though he did, because he gets his card bids every day, and the traveling salesman finds him, and, in my judgment, that would necessarily cease if hedging was done away with.

Fifth, perhaps the desires of the small country elevator man might be expressed in one sentence; they desire that normal and natural forces that control values, sometimes referred to as the law of supply and demand, operate without interference under the present machinery.

The country elevator operator, in Kansas at least, does not ordinarily use the future markets to hedge his purchases. And yet he is directly benefited by it. That is explained in this way: Each morning the country elevator man finds card bids from dealers in Topeka and Kansas City which may be accepted during the day and good for 10, 30, or 60 days' shipment. Traveling representatives of the same houses call on him and buy his grain and give him 30 days to deliver. Practically all of his grain is sold to cash buyers for deferred shipment. But the reason that the Derby Grain Co., of Topeka, can afford to give him 30 days to deliver grain at a price fixed to-day is because the Derby Grain Co. does hedge its purchases. In other words, if the hedging did not exist the country elevator man would no longer be swamped with postal-card bids received each morning and the traveling representative would probably no longer call on him.

Sixth, many of the members of the Kansas Grain Dealers' Association are the grain merchants in towns like Topeka and Wichita who buy from the country elevators. These men use the hedge as well as some of the country elevators. What they want to do is to improve the hedge. If a man buys to-day for $1.30 a bushel and hedges his purchase on the July future market which may be $1.40, and two weeks later from now when he sells his cash grain the price of the cash grain is $1.20, or 10 cents less than he paid for it, the hedge is not of service to him unless the July future which he has sold has also dropped 10 cents. Many times it has happened that his cash

grain has gone down while the future he sold has gone up, or at least not gone down as much as the cash. The result is that he has sold his cash at a 10-cent loss and if his July future has gone up he has also lost in the future, and the hedge instead of insuring him has resulted in a double loss.

Seventh, the futures, in my judgment, should be a normal carrying charge, the storage and insurance above the cash, and it should go up and down with the cash. These market conditions to-day, which would normally affect—should affect—futures, because they are in the same condition.

Now, I do not want to be construed as saying that this situation out there, being a spread between the cash and the futures is a normal one, but it happens with some frequency, I will say, and when it does happen it is very costly to the small elevator man. Moreover, it injects the element of uncertainty into all of his dealings. What I would like to see would be to eliminate that spread by which the cash goes down while the future goes up.

It is true that if there were no hedging facilities, there must be an increased charge for handling, and I can show that in a way which, I think, has not been mentioned. There were no future transactions during the war in wheat. There was a considerable period when the price of wheat was above the Government guaranty. I think when the Government guaranty, let us say, was $2.26 in Chicago, it found Salina about $1.96, less the freight.

For many months the country elevator man was enabled to pay the farmer at Salina $2.40—50 or 60 cents above the Government guaranty. So you see, in that situation the Government guaranty did not affect the situation at all, because he was buying from the farmer at $2.40, and when he had to sell to his merchant in Topeka he was carrying the risk, while it was going down there.

The result was that during the months of the war, in which the price was above the Government guaranty, the country elevator man did have an actual loss, just exactly as he would have to-day if hedging was abolished.

What was the result? The result was that the country elevator man, of necessity, had to increase the margin that he charged for handling that grain, in order to carry that risk. He did not know whether it was going up or whether it was going down, and he had to increase that margin, and he did. That was done by Government sanction, that is, in this respect: The Government exercised regulatory control over the amount which the country elevator man might exact while the price was based on the Government guaranty, but as soon as the price to the farmer went above the Government guaranty, then the Government said to the country elevator that they recognized that there was a risk in there, that someone was carrying it and that it must be paid for. They did not exercise regulatory control over that, and in some instances it almost doubled. I know that of my own knowledge. So I conclude that hedging does narrow the margin.

Now, it has been suggested that if we abolish hedging and if the country elevator man could therefore charge a larger profit for handling the grain, why does he not want to abolish it? The reason is simply this: It is the same reason that affects the country elevator man who pays an insurance premium on his country elevator. They

have a small investment and they would rather take a small margin of profit than to carry the risk on that grain, although they might exact 5 cents or 3 cents a bushel more profit in the first instance if they carried the risk. If they had no hedging, a large break in the market would wipe out their profits, and perhaps their investment.

So the ordinary elevator man would rather do business under the hedging system, where he does not have to carry the risk of the price even though he gets a smaller margin of profit.

It is for the same reason that he carries insurance.

A questionnaire was sent to all of the members of the association last fall, concerning the question of whether or not there were abuses in the future market.

Now, I want to say that all of my remarks here are directed to the so-called pit transactions in the future market, and have nothing to do with the cash transactions.

About 85 per cent, I am advised by Mr. Smiley, who is here, he being the secretary of the association, believed that abuses exist which should be corrected. If they are correct in the matter, the evils are three: Manipulation, false reports, and incompetent speculation or gambling.

Eighth. It is not believed that it is possible to permanently affect the supply and demand by manipulation. It may be done for a period of a few days or more, although a rebound would probably always occur. The law of supply and demand is like a tide which no one can resist. The manipulation may be likened to a deflection of the surface waves. But during the few days in which manipulation does occur the grain dealer and the farmer lose; and, not knowing when it may occur, an element of uncertainty is injected which is unnecessary. The manipulation to which we refer is that which temporarily depresses prices. It is caused by constant selling of great quantities of grain accompanied by false market reports and by a fanfare of trumpets. As has been explained to me, a man might on the Chicago market throw ten or fifteen or twenty million bushels of grain and accompany it by market reports which tended to depress the price. The price may sag 6, 7, 8, 9, 10, 11, or 12 cents in a period of five or six days. Of course, the man has just a short while to cover, and he has his cash grain to buy. The manipulator protects himself by closely buying in on a dozen markets to cover his short sales and the cash grain he needs without any noise whatever. He does that quietly, but, of course, the rebound may come before he gets it bought. If it does, he is pinched. The practice is wrong and should be stopped.

Ninth. That it exists has been admitted by everyone, we think, who has spoken on the matter. It is our judgment that the most effective body to correct the abuse is the exchange itself. They have made and have enforced rules for years which have eliminated manipulation by the bulls, or a corner. They could make and enforce rules which would prevent manipulation by the bears. I will say that some of the best informed men, the leaders of the grain exchanges, do believe that that is so and that that could be done. The reason for the rule which was made many years ago on corners, and which was described here the other day, is that it prevents the effective manipulation upward of prices coming about, in my judgment, because of the instinct of self-preservation. The corner was

ruinous to the short seller who was ordinarily a member of the board of trade. He would sell a lot of grain for May delivery on May 31, say, and he could not deliver. If the grain is merely cash grain, he sits there and demands his grain and he could put the price wherever he wanted to, and to protect the short seller who is ordinarily, or a good many times at least, a member of the board of trade the rule against corners was put in, and they have effectually controlled manipulation upward by that rule. In my judgment they could control manipulation downward. That is, the boards themselves could. The reason they did not do it, I think, was a very natural one. There was no instinct of self-preservation to control the manipulation of prices downward, because the members themselves were not hurt.

I do not ascribe to that any selfish reason. I simply say that the instinct which prompted the control of manipulation upward was simply not present.

So the owner of the grain has turned to Congress to require the boards to make and enforce rules that will prevent downward manipulation.

Tenth, the boards of governors of the exchanges may devise a number of methods by which this can be effected. One of the most effective methods would be to punish certain manipulators by the suspension of the guilty member. As Mr. Barnes said very well here the other day, why do you not strike at the individual member instead of the whole board, and I have worded here an amendment which I would like to suggest for your consideration a little bit later. They do know. I think any outside man could drop into the Chicago Board of Trade or into the Kansas City Board of Trade, and simply by listening, he would know by the gossip around the corridors if somebody was manipulating that market. If the board of governors was required to discipline that man, either by suspending his privileges or fining him or in some other way, I think it could be stopped.

The method that has been most suggested is that the board of governors can from month to month or from week to week place a limit upon the open trades which any member might make. By that I mean the amount which he may be long or short at any time.

Now, Mr. Hoover, if I may quote a statement which he made at a banquet which I attended some months ago, said that that arbitrary limitation which was placed on corn during the war, and which had the hearty cooperation of the members of the board, had been reasonably effective. He said, however, before the House Committee—I am not referring to the record, but I do not intend to misquote him—that there would be some difficulties about that as an economic proposition.

Another way to do that is to have Congress fix a flat limitation. For example, the volume of trading that goes on in the Chicago Board of Trade is so great that a 5,000,000-bushel transaction is very often entered into in a perfectly legitimate manner. Now, to enable 1,000,000 bushels to be dealt in on the Kansas City Board of Trade, which is very much smaller, would enable the Kansas City operator to manipulate.

Now, take the July option. For example, to-day, or on the 29th of May, a great many trades which had been made in May were put over

prices, because every time we were buying a bushel of wheat in excess of our flour sales we would be wondering whether we were buying it cheap enough. I think we would then be primarily interested in the prices, and that is where I differ radically with Mr. Tator. If we were to buy, we would buy just as cheaply as we could. Our stocks of wheat must necessarily be large. We would try to buy as cheaply as we could. Now, we do not care whether it is $1 or $2 or $3, but we must not buy our wheat over our competitors.

Senator KENDRICK. In other words, when you reduce the security you reduce the percentage you require as profit—not in the rise and fall of the wheat at all. Yes. You are perfectly willing to buy the wheat and sell it at the same price, so far as any profit goes on that?

Mr. CROSBY. We would rather have high prices, a satisfactory price to the producer, because we want more wheat, and we want the prices sufficient to induce them to produce the wheat.

Senator CAPPER. What have you observed in the way of efforts on the part of boards of trade at Minneapolis, Chicago, or any other city to remove the evils that you say do exist in the grain trade, and which are complained of by the trade and by the public?

Mr. CROSBY. Well, Senator, the evil that is most talked about is this one of the manipulation. The manipulator is a very hard man to know. I think, as a matter of fact, the returns to the producer, due to competition on the Minneapolis exchange, are beneficial to the producer. Now, another situation might be developed to bring more returns. I do not know; it is a grave question in my mind whether it can be done; but if it can be done it would show in the actual working out in this new grain corporation. If it is able to handle its own grain, it might be able to work it out. I do not think anybody can tell that.

Senator CAPPER. Has the Minneapolis Board of Trade sought to do this manipulation?

Mr. CROSBY. We have a rule to prevent corners, of course, but the trading in Minneapolis is not of very large volume, Senator, as compared with Chicago, for instance.

Senator CAPPER. Well, do you know of any efforts on the part of the Chicago Board of Trade to solve that problem of manipulation?

Mr. CROSBY. The problem of manipulation, I think, has been discussed more since the hearings in Washington than it was before.

Senator CAPPER. Discussed by the board of trade?

Mr. CROSBY. Discussed by the board of trade; yes. I have been rather fearful of such things going on, but I have had no knowledge of it. I have no reason to believe that any certain individual was doing it. I have heard a great deal more about it since these investigations started; just rumors and gossip.

Senator CAPPER. Are there any other questions that the members want to ask Mr. Crosby?

(No response.)

Senator CAPPER. That is all, Mr. Crosby. We are very much obliged to you.

I think we had better adjourn here until to-morrow morning.

Mr. TEMPLETON. Mr. Senator, I have a statement to make. It will only take me a minute. I just want to go on record here, and will be very brief.

Senator KENDRICK. So that it would be less dangerous?

Mr. CROSBY. No, sir; I have not any suggestions to make.

Senator CAPPER. We now have governmental supervision of the banks, which seems to work very satisfactorily, and we do not hear any complaint along the lines that you have suggested might arise in this case, do we?

Mr. CROSBY. I think that is quite different. I do not know much about the banking business; but in trading on the grain exchanges, a great many trades are made for three or four months in the future, with a possibility of their being closed out. The Secretary might be mistaken in his action, but by that time the damage would already be done.

I think they are heartily in sympathy with the elimination of manipulation. A man should not be permitted to deal in these large volumes. If by supervision of the Secretary the penalty should fall on that man, I do not think you would have manipulation, at least, then. Supervision is all right, but the ability to close a market place is a thing that startles us.

Senator NORBECK. On account of the loss that would result on existing contracts, especially?

Mr. CROSBY. Yes, Senator. I doubt if we would attempt to carry large stocks with those hedges.

Senator KENDRICK. It is your idea, Mr. Crosby, that just to raise the question of suspending the operations would do the damage, without even carrying it into effect?

Mr. CROSBY. It is a question whether it could or not, Senator. I do not know.

Senator CAPPER. Do you think the Secretary of Agriculture could go very far in his supervision if he had no authority?

Mr. CROSBY. He has there the authority of investigation, to go into the books.

Senator CAPPER. You would simply deprive him of his authority to suspend?

Mr. CROSBY. I think so; yes, sir.

Senator CAPPER. That is your objection?

Mr. CROSBY. Yes, sir; that is my objection here, that before you would have a chance to have a hearing you would be put out of business, and the whole thing would be in a panic.

Senator NORBECK. Might that not be avoided in part by a provision in the bill that it should not affect outstanding contracts?

Mr. CROSBY. We sometimes will have flour stocks sold in the form of wheat futures. The flour sales are required to keep the mills going. We will continue to grind and place the flour in the warehouses throughout the country, and we would be in the embarrassing position of having flour on hand and wheat sold, which is a legitimate transaction. I think the hearing should occur before the market should be put out of business.

Senator KENDRICK. Is it your opinion, Mr. Crosby, that a great volume of business or the aggregate of the transactions affects the actual price of the wheat that is paid the producers of the country, or the price that is demanded of the consumer for the finished product? Do you think it affects adversely those two factors?

Mr. CROSBY. I think that is true, Senator. If we did not have the opportunity of selling what we buy, we would bid very much lower

prices, because every time we were buying a bushel of wheat in excess of our flour sales we would be wondering whether we were buying it cheap enough. I think we would then be primarily interested in the prices, and that is where I differ radically with Mr. Tator. If we were to buy, we would buy just as cheaply as we could. Our stocks of wheat must necessarily be large. We would try to buy as cheaply as we could. Now, we do not care whether it is $1 or $2 or $3, but we must not buy our wheat over our competitors.

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Mr. TEMPLETON. Mr. Senator, I have a statement to make. It will only take me a minute. I just want to go on record here, and I will be very brief.

afford free and unlimited opportunity for a man who wants to bet $20 or $50 to come in; they afford an easy way to do it.

Senator KENYON. Are they licensed in any way?

Mr. McDERMOTT. No, sir.

Senator KENYON. Why?

Mr. McDERMOTT. There is a statute, I think, in perhaps every State—at least there is in Kansas, Missouri, and Illinois—prohibiting the sale of grain, and in Minnesota, for future delivery where there is no intention to actually receive the grain. The statutes make it a gambling transaction.

Senator KENYON. Is there such a statute as that in Kansas?

Mr. McDERMOTT. Yes, sir; and in Missouri and Illinois. I think it is the common law.

Senator KENYON. There is such a statute in pretty nearly every State.

Mr. McDERMOTT. Yes. Here is the way they avoid it. In the little document that I get from the wire house I get the exact quotation. I have paid my $20 and, of course, I get it is understood and agreed that the actual delivery of grain is contemplated on this order unless the order is closed out before that time. When they get a man on the witness stand, they ask him if he did not know that they were governed by rules, and if that was not his contract. They go before the jury and they acquit him. You can see the difficulty of enforcing a statute. The operators of these houses get a commission, and they will call up men and advise them to buy or sell. I see a group of 12 or 15 sitting in front of the blackboard every day, men who have not now and never have had any connection or knowledge of the grain business. This is gambling pure and simple, and without as fair a chance to win as you have at roulette, and without as much fun attached. Personally I should like to see it eliminated. That is the distinction I am trying to draw between the investor, the man who wants to invest in grain on the market, and the man who wants to go in there and satisfy his appetite for gambling by the machinery furnished by those wire houses.

I would like to say here that, although I am not authorized to speak for any of the boards of trade, and the record shows that a good many of them before the House committee said that incompetent speculation should not be discontinued, I have reference to that, where the leaders of the boards of trade who were down here before the House committee said that this incompetent speculation should not go on; personally I should like to see it eliminated.

You might say it is a moral question. That was the answer made in the House. So was the Louisiana lottery a moral question.

I think there would be enough speculation to sustain the market if the machinery of the wire house, which simply makes gambling easy and convenient were eliminated, or at least only used for transmitting information. Men who have spent a lifetime on grain exchanges have told me that they could be eliminated without interference with the hedge market. In fact, the habitue of the wire house plays into the hands of the manipulator and probably does more harm than it does good. But even assuming that it does do good, which I doubt, and speaking from the standpoint of one who buys bread and produces some wheat by proxy, I would rather

pay more for my bread and get less for my wheat than profit on the loss of the man who has gambled away his hope of happiness or of the widow who has lost her insurance money.

It seems impossible to me that the great business of merchandising grain can not go on without running as a side line these wire houses dotted all over the country. I was in Indianapolis the other day on a grain case with some mills, and a farmer from Anderson, Ind., told me about a man who was ruined this spring in a wire house in Anderson, Ind.

Senator KENYON. Why can not the business go on without these things?

Mr. McDERMOTT. I think it can.

If Mr. Tator's figures are correct, there are 300 times as much transactions in grain as there is actual grain. I think 100 times can be accounted for by trading in hedges. Now, you can go into a pit and place a hedge that quickly, as quickly as I snap my finger. I think the hedging facility would be preserved in all of its essential features if a man had to wait a minute to place his trade. In other words, I think if there was a speculative market of 100 times the actual amount of grain handled, it would be sufficient. In other words, I question whether all of these wire houses do not make more speculation than is needed to serve as a cushion. Personally, I would widen that margin a little. That is a personal opinion. I think it can run, and I would like to know, when the committee hears some board of trade men, if they do not believe it can run. I do not know what they would say, but many of them are men of the very highest integrity. I have known some of them for a good many years, and I think many of them will doubtless say, as they did before the House committee, that, in their judgment, it could run.

The board of directors of the Chicago Board of Trade have recommended that their own clerks be not allowed to gamble. After the hearings on this first bill, which was introduced in December, there appears in the House record of the hearing in April, letters sent out by Mr. James P. Griffin, president of the Chicago Board of Trade, after consultation with the advisory committee—I do not know who that is—of his board of directors, asking what recommendations they would make for the boards themselves to correct the evils that were brought out in the hearings in January. The board of directors came along and recommended that their clerks be not permitted to speculate in wheat.

The CHAIRMAN. That is the same theory under which the saloon-keeper would not let his bartender have a drink?

Mr. McDERMOTT. Yes, sir; but why should my clerks be allowed to speculate? He might run away with my money.

The CHAIRMAN. I suppose they are waiting for you to write a similar letter, which would keep your clerks out.

Mr. McDERMOTT. But, unfortunately, I do not have control over their wire houses, and they do. They can stop their wire house from selling to their clerks, and I can not. If I could, I would stop them all, my clerk and every other clerk, unless they knew something about the grain business.

The proposed bill eliminates puts and calls. This stops one of the worst forms of gambling, the bet on long odds fixed by the other man. I think if the wire houses were eliminated the great majority

of the incompetent speculators or gamblers would go with it, for the reason that the ordinary gambler at a wire house would not take the trouble to send a commercial wire over the Western Union.

If this were done, it would not interfere with the spreader or the scalper, who are the professional and informed traders. In other words, while no one has any figures, and probably no one knows, at an outside guess from my observation, I think at least 75 per cent of the trades placed in the wire houses are what are termed incompetent speculation or gambling. The spreader very largely maintains an equilibrium—that is not quite the word—but a uniform level between the various boards. The investor who follows conditions can easily place his trades on contract markets. He could buy 50,000 bushels of wheat and hold it up for a month or so. He can very easily use the commercial wires.

The grain dealer has a dread of Government regulation. He does not fear supervision. I draw this distinction: Regulation is the power to say, "Thou shalt." Supervision is the power to say, "Thou shalt not."

In other words, the grain trade—and I am speaking for my clients—has no objection to having fair rules laid down in a statute with a Government official supervising its observance, but he does object to having the power lodged, as it generally is lodged, in a subordinate to come to his place of business and tell him how he may conduct his affairs.

During the war, while I was not in touch with the business at all during that period, but in 1919, after the war, a man out in Colorado—and I cite this as an example of what may happen under Government regulation, and I want to say that, as far as I am advised, the Government had at its disposal during the war, men of the type who made Government regulation as easy as it could possibly be, men whose services I do not believe the Government could command in times of peace, like Mr. Barnes and Mr. Prazzek, of Kansas City, who was governor for that district—they had a rule that, of course, a man must pay the Government guaranteed price, but if the wheat was smutty he was allowed to take 5 cents per bushel.

There was a little country elevator operator out in western Colorado who bought a lot of wheat from the farmers. There was not a bushel of wheat grown in western Colorado that year that did not have some smut, not any, and he made a uniform deduction, not of 5 cents, which the law allowed him, but of 2 cents a bushel for all of that wheat. That wheat was sent to the Kansas City market and was sold as smutty wheat, and it was smutty wheat. It was not contested. Now, he is a busy man. The regulation had gone out some months before that and he had forgotten about it, that if he bought smutty wheat he must write "smutty" on the ticket. He was busier than a bee right in the midst of that season, and although all of it was smutty he did not write the word "smut" on every one of his tickets. Later a Government inspector came down there and called his attention to that old regulation, and asked him for $10,000 to pay back to the farmers. We had a hearing. We did not dispute that the wheat was smutty; we did not dispute but what the man had actually paid the farmers more than they were entitled to, but he had forgotten to write the word "smut," and we settled for about $3,500.

The CHAIRMAN. Did he have to pay that?

Mr. McDERMOTT. Yes, sir; it was a regulation. That was Mr. Baker, of Burlington, Colo. There is no question about those facts.

The CHAIRMAN. Assuming that you got the facts exactly right were the Government officials insisting on that?

Mr. McDERMOTT. Yes, sir. I had a hearing before Mr. Krazek, and he took the position that although he was very fair about it, if he started in to not enforce these rules and stand back of the men working under him, he did not know where he would land. But through a compromise arrangement I saved Mr. Baker $6,500. This was either in the spring of 1919 or 1920.

Mr. Smiley says there are a great many instances of that kind, and that is what they object to.

Of course, if Government regulation could have the personal attention of a Cabinet officer there would be little objection. But, as a practical matter, this power must be exercised by many men, among whom there are bound to be some who do not understand.

The CHAIRMAN. Now, as I understand it, you offer that instance to show the reason why these people fear governmental regulation?

Mr. McDERMOTT. Why they fear regulation as a general proposition; and I was just about to say, Mr. Chairman, that, in my judgment, this bill is one of supervision, which they do not dread, rather than regulation. That is, I can find no power lodged in this bill that will interfere with a man's conduct of his own business in his own way, but it does require him to keep records, which no man could object to, and it does give the Secretary of Agriculture, or his assistants, power to go in and look at the records at any time and see whether or not he is doing his business honestly and complying with the rules laid down by the statutes.

I can see no possible objection to Government supervision of a man's business. Regulation, in my opinion, is a little different.

That is all, sir, of my general statement. I have attended these hearings for two or three days and I have heard the chairman say to two or three of the men that he would like concrete suggestions as to this particular bill. If it is not presumptious, I have one or two of those suggestions, which I would be very glad to offer.

The CHAIRMAN. We would be very glad to have them.

Mr. McDERMOTT. First, I want to direct your attention to the suggestion made by Mr. Crosby on yesterday, about the insertion, in the last days of the hearings before the House committee, of the words which, in my judgment, are unfortunate, in section 4: "made at, on, or in any exchange, board of trade, or similar institution or place of business." That is on page 2, section 4, line 20.

The CHAIRMAN. Commencing after the word "delivery," on line 21, and running down to the word "except," in line 22.

Mr. McDERMOTT. I would like to call your attention to the fact that in Senator Capper's original bill those words do not appear. His original bill says: "upon each contract of sale of grain for future delivery except."

Now, as I understand it, Senator Capper—and I was in conversation with him some time during the time that this matter was under consideration, since December, in fact—as I understand Senator Capper's original intention, it was simply to affect the future transactions and not to interfere with the cash grain.

The Senator now has inserted that subsection (a), where the seller is the owner of the grain, for the purpose of eliminating cash transactions.

Then on the future trades, Senator Capper says in his original bill, "We will tax them all, except where they are made upon contract markets, which are supervised by the Secretary of Agriculture."

That was the intention of the original bill and that is the way it would read if the words "made at, on, or in any exchange or board of trade" were cut out.

Senator KENYON. Was that suggested by the Secretary of Agriculture?

Mr. McDERMOTT. I think I can explain to you, sir, how that came in.

A hasty examination of this bill was made by a gentleman who, after he made it, reported that, in his judgment, that section 4 as it stood in Senator Capper's bill and Mr. Tincher's original bill—they were carbon copies of each other—would prohibit a farmer from selling his cash grain to anybody unless it went through the board of trade. If the bill required the cash transaction to go through the board of trade they ought to add those words in there; so they inserted those words, "made at, on, or in any exchange or board of trade," so that we would not tax the farmer in selling his wheat to the mill.

My suggestion about that matter is this, that you cut out those words so that you tax all the grain for future delivery, but in order that there may be no misunderstanding about that, the spot or cash grain is not affected, that in the definitions over on page 1, at the end of line 11, there should be words inserted similar to these——

The CHAIRMAN. After the word "sorghum"?

Mr. McDERMOTT. Yes, sir. "The words 'future delivery' shall not be held to include any sales of cash grain for deferred shipment." That would make it clear that it did not affect cash grain, and then you could leave out those words.

The CHAIRMAN. Give us those words again, please.

Mr. McDERMOTT. I have it in typewritten form, sir.

The CHAIRMAN. I want to make a note of them.

Mr. McDERMOTT. "The words 'future delivery' shall not be held to include any sale of cash grain for deferred shipment."

The CHAIRMAN. All right.

Mr. McDERMOTT. Now, while under the present system of handling of the grain business——

Senator KENYON. Why do you use that language, "shall not be held"?

Mr. McDERMOTT. Well, I do not know, sir.

Senator KENYON. Might we not better say, "future delivery shall not be"?

Mr. McDERMOTT. Yes.

Senator KENYON. As used in this act.

Mr. McDERMOTT. Yes; undoubtedly. My only purpose in this was that I thought the committee desired more concrete suggestions than you did merely idle ones.

Senator KENYON. Yes, sir. I was wondering if there was any particular reason for that language.

Mr. McDERMOTT. No. The words "cash grain for deferred shipment" do have a technical meaning.

If the grain business continues to exist as it now exists this amendment put in by the House committee in section 4 would not hurt, because all future trades are made on board of trade, but it has seemed to me that if you tax future trades made on boards of trade, and did not tax those made off, the genius of the American business men——

The CHAIRMAN. This limits the broad scope of the act?

Mr. McDERMOTT. Oh, very much; yes. In other words, if futures on the boards of trade were taxed, and those bought by private persons were not taxed, I think the private persons would start in the business. That is my objection to that.

Mr. Crosby made the suggestion that the suspension of the trading privilege would interfere with the future sales that have been made on the board but not completed. In my judgment, that is not well taken, because the tax is made on the sale and not on the fulfillment of the contract. However, it has seemed to me that in section 6, in line 24, which is on page——

The CHAIRMAN. Page 5.

Mr. McDERMOTT. Words similar to these might be inserted.

The CHAIRMAN. After what?

Mr. McDERMOTT. Just before the first "provided."

The CHAIRMAN. Yes.

Mr. McDERMOTT (reading):

Provided, That such revocation or suspension shall not impair the validity nor prevent the fulfillment or assignment of any contract made on such market before such suspension or revocation is effective.

I can not see that it would do any harm, and it would make it entirely clear that it did not affect anything else.

I understand the Federal Government can impair the completion of the contracts, but the States can not. That is the suggestion that I would like to make on that.

Now, on page 6, line 22, I observe the word "modify." That is, that the court of appeals shall direct the Secretary of Agriculture to modify his order.

I do not know how far the delegation of powers affects Congress, but, so far as the State is concerned, in my judgment that would be a delegation of legislative power to a court, and I just wonder whether that is——

The CHAIRMAN. Where is that?

Mr. McDERMOTT. On page 22, line 6.

Such a court may affirm or set aside the order of the Secretary of Agriculture, or may direct him to modify his order.

As far as the State statutes on railroad rates are concerned, it has been many times held that it was a delegation of legislative power to the judiciary. I just want to submit to the judgment of the committee whether or not that is ill advised.

The CHAIRMAN. I think that is common language used in many of the statutes passed by Congress.

Mr. McDERMOTT. Well, I did not know that.

The CHAIRMAN. I believe that is a copy from some other laws.

As to this court procedure, while it provides for an initial proceeding in the circuit court of appeals, it does not provide for the use of the

United States district court at all, but it goes directly to the circuit court of appeals.

Senator KENYON. We have quite a number of statutes of that kind.

The CHAIRMAN. Yes.

Mr. McDERMOTT. I am not so familiar with the Federal statutes. In our industrial courts act in Kansas, which I had some little share in preparing, we go for direct proceedings to the industrial court.

The CHAIRMAN. The idea in that was to avoid delay.

Mr. McDERMOTT. I see no objection to it at all.

Mr. Crosby, or Mr. Barnes, one of the gentlemen whom it was my privilege to hear here, made a suggestion that seemed to me to be very excellent, and that was this: They said that the power lodged in the Secretary of Agriculture to suspend or revoke the designation of a board of trade was, of course, a very serious matter, and that to require the Secretary of Agriculture to suspend or revoke the designation of the contract market because of the guilt of a member thereon was to punish six or seven hundred for the one.

Now, it has seemed to me that a subsection in 6 (*b*) could be written without interfering with the power over boards at all, but would simply give the Secretary of Agriculture this additional power to enable the Secretary of Agriculture, if he sees fit, to proceed directly against the guilty member of the board and suspend his privileges on the board of trade.

The CHAIRMAN. Would not that be necessary for him if he wanted to do that? He would have to require the board to take that action. I doubt very much whether we can pass a law that gives the Secretary of Agriculture the right to expel a man from a board of trade. The board of trade could do that, or he might say to the board of trade, "unless you do it I will suspend you."

Mr. McDERMOTT. That may be a complete answer to my question.

Senator KENYON. We are doing all of this under the taxing power.

Mr. McDERMOTT. I know that very well.

The CHAIRMAN. I remember distinctly what Mr. Crosby said, and if that danger does exist it should be avoided, of course, but it seems to me that this bill as it stands now would give the Secretary of Agriculture the power to remedy that defect.

Senator NORBECK. Do you think the present bill would give him that authority?

The CHAIRMAN. Yes; I think so. It seems to me that the secretary, we might assume, would want to do what is right, and he would not arbitrarily put a board of trade out of business.

Mr. McDERMOTT. Certainly.

The CHAIRMAN. For the guilty conduct of some one man.

Mr. McDERMOTT. Certainly.

The CHAIRMAN. Unless the board of trade could be coupled up with the act.

Mr. McDERMOTT. I meant to say a while ago, and if I did not, I would like to say it now, that, to me, the peculiar genius of this bill is that power which is lodged over boards of trade is the power which must be exercised practically altogether by the Secretary in person. That is, the power of suspension is one which he could not delegate. The boards, I think, would be quite safe in letting the Secretary, or any of the other Cabinet officers, or a combination of them—they would be entirely safe in feeling that they would get a square deal.

The CHAIRMAN. Well, in every case they would have the right to go into court.

Mr. McDERMOTT. Oh, certainly. And, as it is worded, it says the circuit court of appeals' duty would be to set it aside if unsupported by the evidence.

The CHAIRMAN. Yes.

Mr. McDERMOTT. I do not appreciate the gravity of the supervisory features of this bill.

There is just one thing, if I may say it, from my clients' standpoint in particular.

A new subsection (e), in paragraph 5, page 4, at the bottom of the page, has been written in concerning the admission to membership on the boards of trade of cooperative elevator concerns. Now, for five or six years all the owners of the private elevators have asked as a fair field and no favor between them and the operators. There is no right given in this bill for a private elevator man to force himself on the board of trade, and that is all right.

The rebating of commissions, which the boards of trade prohibit, inures, of course, to the benefit of the small elevator man against the big elevator man. It is the big elevator man that gets the commission, just like the big shipper used to get the rebates from the railroads.

Now, if the cooperative elevator, in distributing this patronage profit, part of which would be its commissions on the board of trade—if they would simply distribute them to their members, I think we would have no great objection; but, as you understand, a cooperative elevator concern may have 30 members, men who have subscribed to the capital and bought the elevator, and they, in turn, may buy wheat from 150 farmers, 120 of whom are not members of the cooperative concern.

Now, to enable the cooperative concern to distribute these commissions back to the 120 that are not members is simply to cut the heart right out of the investment of the private elevator.

In other words, I think that section should be limited so that the distribution of patronage profit, which includes the commission on the exchange, should be limited to its members.

Senator NORBECK. To the stockholders?

Mr. McDERMOTT. Well, to its members. I do not know that they are stockholders, but these private cooperative elevators buy from their own members, and they also buy from men who are not members, which is in direct competition with us.

The CHAIRMAN. My attention was diverted for a moment and you said something that I did not hear.

Mr. McDERMOTT. Yes, sir.

The CHAIRMAN. And I am particularly interested in this provision. You think, do you, that these cooperative organizations ought to be kept out if they do buy from somebody who is not a member?

Mr. McDERMOTT. No, sir; that was not my suggestion.

The CHAIRMAN. Was it not?

Mr. McDERMOTT. No, sir. My suggestion was this, that in the distribution of patronage profits, the cooperative association should distribute its profits to its members and not to its nonmembers.

The CHAIRMAN. That may be a good provision to put in, but so far as I know, none of these cooperative institutions do anything else.

Senator NORBECK. Oh, yes.

The CHAIRMAN. Do they?

Mr. McDERMOTT. It could be added by the words "distribution to its members."

The CHAIRMAN. Are they now in the habit of distributing profits to outsiders who have nothing to do with the organization?

Mr. McDERMOTT. I can not answer that from my personal knowledge, but the officers of the grain dealers' association who asked me to come down here asked me to say that all that the privately owned elevator wanted was a fair chance with the man who is not a member and that there should be a provision that the patronage profit should not be distributed to nonmembers. Here is John Jones, who is not a member of the cooperative elevator concern.

The CHAIRMAN. I understand clearly what you mean.

Mr. McDERMOTT. Well, my only suggestion is that in some way that these patronage profits, which are nothing on earth but the distribution of the commission, should be limited to the members, because, if they can be distributed to any man who sells wheat, the private elevator can not compete with him.

The CHAIRMAN. I may be mistaken, but I have been laboring under the impression that that is exactly what they do now.

Senator LADD. I think that is the only thing that is done in North Dakota.

The CHAIRMAN. I never heard that suggestion made before. In other words, if we, surrounding this table now, constituted one of these associations to produce wheat, and we brought it into the elevator, and our neighbor, John Jones, did not belong to our association and he brought in his wheat, and the elevator bought it and paid him for it, my understanding is that this man Jones has no interest whatever after he has sold the wheat and has gotten his money, while, if it is a profit, we share it.

Mr. McDERMOTT. We have no objection to that proposition. I assume it would possibly be varied between different States and different counties of the same State, but the insertion of the words "to its members" could not hurt the cooperative association, and would prevent ruining our private business.

Now, this is a small matter, but the word "fake" should be "false." It is "false" in the original bill.

I think that is all, sir, unless there are some questions.

The CHAIRMAN. Are there any questions that any member of the committee wants to ask this witness?

(No response.)

The CHAIRMAN. That will be all, Mr. McDermott. We are very much obliged to you, sir.

Mr. LYMAN. Mr. Chairman, in connection with this last matter, I think I can throw a little light, perhaps, on the variation in some States. It will only take a minute.

The CHAIRMAN. All right.

STATEMENT OF MR. CHARLES A. LYMAN, SECRETARY OF THE NATIONAL BOARD OF FARM ORGANIZATIONS.

Mr. LYMAN. In some of the States, Mr. Chairman, the State cooperative laws under which these cooperative organizations operate require the payment of one-half of the patronage dividend to non-

members. That is done in Wisconsin and I think in a number of the States.

Now, the laws usually provide that the cooperative may give the dividend, this one-half patronage dividend, to nonmembers, in the form of one or more shares of stock or apply it toward one or more shares of stock. Now, not all of the States require that, but some of the States do, so that it has the effect of bringing the nonmember through its business to the cooperative grain exchange, so that he does become a member.

Senator NORBECK. As soon as he has sold a load of wheat he is a member then, really, is he not?

Mr. LYMAN. That applies to whatever his profit may be. One-half the rate that the regular member gets would apply on it. If it were a large enough transaction it might take care of a share of stock immediately, but usually it takes operations throughout the year.

Senator CAPPER. Is your organization in favor of this bill, Mr. Lyman?

Mr. LYMAN. Yes, sir; we are in favor of the general provisions of the bill. There are some of our people who would go a little further than this bill would go.

I had intended to arrange to come before you with a statement a little later on.

Senator CAPPER. All right.

The CHAIRMAN. We will now hear Mr. St. John.

STATEMENT OF MR. D. P. ST. JOHN, COUNTRY GRAIN DEALER, OF WORTHINGTON, MINN.

Mr. ST. JOHN. My name is D. P. St. John; my residence is Worthington, Minn., and I am a country grain dealer.

Mr. Chairman, and gentlemen of the committee, Worthington, Minn., where I reside, is in the southwestern corner of the State. I have been in the business of buying grain direct from farmers in that locality for over 30 years.

If the committee will permit me, I will attempt to give a short history of the buying and delivery of grain and its relations, as we find them, to contracts made through the exchanges for future delivery of that grain.

As I say, we deal direct with the producer. He gets his grain and offers it to us. They grow a great deal of corn; and we will say that he comes in with a wagon load of corn, shelled, and asks us what we will give him. He probably first goes to a farmers' cooperative elevator, who are in competition with us in nearly all places where we buy. He may be satisfied with the price we offer, or he may say, "No; I won't take that price; I will store this load of grain with you in your elevator," because, under the laws of Minnesota, we are obliged to receive grain in store under all ordinary conditions, if it is in condition to store. He may say, and often does, "Your price does not suit me; the market, I believe will be better, and I will call on you later and offer this lot of corn." He, perhaps, will have 5,000 bushels; and I wish to say in this connection that he not only has the advantage of the competition of the farmers' elevator, whether it be cooperative or otherwise, and perhaps some other concern in this country town, but he has the privilege of the same right as we, as grain dealers, have

to order a car. He will get his car just as quickly as we would. He loads his grain into a car and ships it to any terminal at the same rate that we ship it to the same commission house that we patronize, if he desires, and he has it sold under just as favorable conditions. The commission house we patronize, I guess, without question, will work just as hard to get him the full price for that car as it would if we had bought it and shipped it to them. He has thrown around this car of grain the advantage of State weights in the hands of entirely independent men from the grain exchanges.

The weights are notoriously correct, barring accidents, which do not often happen; and being in this business so long, and having followed the different phases of it for over 30 years, and having been originally a farmer myself, and being somewhat of a farmer now, I can not help but feel that it is right to say that the grain-producing farmer in Minnesota has a mighty fair show in the marketing of his grain. The competition is certainly there all the time in any of the towns in which we try to buy. We have elevators in 10 different towns in southwestern Minnesota, which we have acquired during the last 30 or 35 years of business.

Now, if we buy these 5,000 bushels of the grain which this farmer has in his crib, when we make that contract, which may be by telephone from his house, he will say, "You have my load of corn in your elevator, and you know what it is. What will you give me for it, for the 5,000 bushels of corn?" If we can agree on a price, which we try to do, then he will say, "I will get a sheller and bring it in. I will need five or ten days," or if the weather gets bad he will say, "I will need 10 days, or, if I need it, can I have 30 days?" Sometimes the state of the roads gets to be such that, on a heavy delivery over a distance of five or six miles the man actually has to have 30 days in order to deliver on those roads.

When we have bought the corn, then we want to sell it. Unless we happen to have bids at hand that we know are as high as we can get, then we will wire Chicago, as they are the great corn future trading market, and our commission house there will sell for future delivery. At this time, for instance, we would not sell July corn. We would sell the 5,000 bushels of September corn, in order to avoid possible delay in shipment or delivery, and finally we get rid of this car of corn.

We would sell 5,000 bushels of corn for September delivery in Chicago, and we would not know at that time whether that corn would eventually go to Chicago or not.

We have customers in the dairy district of Eastern Minnesota and Western Wisconsin, as well as some in North Dakota, where they do not grow corn, to whom we can sell an occasional car. That has not been true during the depression of the past winter, but, under ordinary conditions, when people were doing business and buying things, we found some trade of that kind. We did sell a few cars though this year.

Now, I want to call your attention to the fact that this man is a future seller on this corn; he has asked for future delivery, and under the conditions that exist, we are able to give it to him. If we are able to sell this corn by the time he has delivered it or shortly after, about that time, at a good price, to go to some terminal consumer, it is loaded on our weights. The deal, perhaps, is made by telephone with men that we never saw, and very little is said about it, except that we have

sold a car of corn on our description and on our weights, or, if we are not in a position to furnish weights, we may agree to take his.

We load that corn and make a bill of it against the bill of lading, send it to some banker near-by, near him, and he is expected to and does in, I might say, all cases, pay the draft for the amount of the corn. Then, as far as the cash deal is concerned on this 5,000 bushels of corn, it is settled.

At the time we made this contract with this consumer, so we know we have disposed of the corn at the price agreed, we immediately wire our Chicago house to buy in 5,000, which would be September at this time, and take our loss or profit on that sale and purchase. In the meantime, at the particular time that we sold these 5,000 bushels of corn to this consumer we took advantage of the advance in the price that might exist at that time, if any, or he took advantage of the decline, if any, that may have existed at that time. So that we gain on the future trade or insurance. Then we lose an equal amount on the 5,000 cash. If we lose on the insurance before we dispose of this cash corn, then we take a corresponding profit off on the 5,000 of cash.

To follow that further, if we do not succeed in selling this corn or product to a country consumer, we will eventually ship it to the best market. It might be Omaha; it might be Milwaukee; it might be Minneapolis. Very likely it is Chicago, for Chicago this year has been the broadest cash market of the terminals. When that car of corn got in to our commission house in Chicago it would then be sold, and the same process gone through in the settlement of the future trade.

Now, we retail flour; we buy a carload of flour in Minneapolis, possibly, or points in Kansas. A year ago, when the war was over, or partly over, we had a very high range of prices on some cars of flour. We bought, for instance, a car at Lincoln, Nebr., 1,200 bags of flour. We needed the flour to supply our trade and had to keep it on hand all the time. It took three weeks to get that carload of flour up from Lincoln, Nebr., and as soon as we had bought it, knowing it was a high price, about $3.75 a sack, I think, delivered at Worthington, Minn., we sold 3,000 bushels of futures in Minneapolis, or approximately 3,000 bushels of wheat. That was manufactured into this flour by the time the car of flour got in to us—this was one of the cars on which we did not lose a thousand dollars. By the time the car got into us the price was down 30 or 40 cents a bag on this flour, and it kept on going down practically all the time until it was sold, or when about two-thirds of the flour was sold. Then, of course, it made us a nasty loss, as far as the retail end of that was concerned; but we bought off our hedge in the Minneapolis of the 2,000 bushels of future wheat, which enabled us to get out of that car of flour without much loss.

Had we followed this systematically, as we should, we would not have had very heavy losses in our stocks of flour and mill feed this past year during this depression, As it stands, we did not hedge on our flour and did not sell products enough against the flour and mill feed that we handled, but what we did get some right smart loss.

This season farm hedging in the country, perhaps, is not done by the small dealers to any great extent, for the reason that they do not all handle it in carload lots and the declines of from $4 a sack to $2

a sack on flour and proportionately on mill feed, has caused us and many others very heavy losses this year.

The CHAIRMAN. Now, does this hedging privilege that you enjoy enable you to save yourselves?

Mr. ST. JOHN. Of course it does not allow us to make a large amount of money if the market goes up, because we are sure of the margin on which we bought the grain. If we buy this corn at 2½ cents a bushel profit originally, we are merely insured for that 2½ cents.

The CHAIRMAN. Yes; but what I mean is this: On this large amount of flour that you bought at various time the price went up.

Mr. ST. JOHN. Yes, sir.

The CHAIRMAN. It was the hedging privilege that enabled you to save that profit?

Mr. ST. JOHN. The hedging privilege enabled us to avoid a heavy loss on such cars as we hedged against.

The CHAIRMAN. Yes.

Mr. ST. JOHN. I am sorry to say that we did not hedge against all of that.

The CHAIRMAN. Now, did not the fellow on the other side of your hedge lose?

Mr. ST. JOHN. That depends on what he did with his end of the trade.

The CHAIRMAN. Well, in tracing it on to the end, somebody had to lose, had they not?

Mr. ST. JOHN. Well, I am not competent to testify as to that, perhaps, because our position is that they have the opportunity to insure against losses.

The CHAIRMAN. Well, when a man is insured and he loses, the insurance company has to pay for it, and they lose. In other words, you can not destroy property, or you can not cut its value in two, without somebody losing somewhere, can you?

Mr. ST. JOHN. Some one has to stand the shrinkage of these declines.

The CHAIRMAN. Yes.

Mr. ST. JOHN. Yes, sir. We are wondering as grain men as to the result of this agitation. These exchanges have been built up for 40 years, longer than we have been in the grain business. They are made up of a high class of people, these great millers and these great handlers of grain, who are just as American as any man is. They pay enormous taxes; they help to support the Government; their word is good for all they are worth. We have found, under war conditions, Government control, where one bookkeeper usually did our work in our office, that we had to have two during all of that time, merely to keep up with the requirements of Government control.

The CHAIRMAN. Now, do you think it is fair to say that the Government control during the period of the war, necessitating the taking of everything over suddenly, should be compared to Government control under normal conditions?

Mr. ST. JOHN. Only in so far as they might require practically the same things from some set of men and not of everybody.

I have heard the discussion here for a couple of days about the Secretary of Agriculture having absolute control of, you might say, the life and death of these exchanges; that, in case of violation by an

individual, they, as an organization, must suffer the consequences. This idea that they can be immediately stopped, even though they have the right to go to the courts, by Government agencies, does not seem to be a good American principle. If we, in business, had to buy a lawsuit or take the chance of a lawsuit, very often we would quit the business. I have been 35 years in business and I have never had but one lawsuit in my life, and I vowed then that I would try never to have another.

Senator NORBECK. Would you not always buy a lawsuit if you violated the law?

Mr. ST. JOHN. If I were a member of the chamber of commerce, although I may not have violated the law, still I might buy a lawsuit if I had open trades under this bill, as I understand it.

The CHAIRMAN. Well, it seems to me, Mr. St. John, that it goes back to the point of whether there is anything wrong. If there is not anything wrong, we ought not to pass any legislation.

Mr. ST. JOHN. Mr. Chairman——

The CHAIRMAN. But if there is something wrong, and it is possible to rectify it, then Congress ought to rectify it.

Mr. ST. JOHN. Mr. Chairman, I am out among these farmers; I am a farmer; in fact I am a member of the farm bureau and have been since its early inception, but I pose more as a grain dealer. I tried the farming line and I carried it on in pretty good shape. Among the farmers there is not a demand, not nearly the demand for the class of legislation that you are proposing here that you people are led to believe.

There have been great efforts put forth by some organizations to decry and defame the chambers of commerce and big business directed through the farmers—great efforts in the last two or three years. You are hearing from the men who have been affected by the expenditure of these large sums of money, and the efforts of certain people to get office by barking their ideas relative to big business generally and chambers of commerce in particular. The grain trade has been picked by them as a fertile field to get votes from by decrying them and doing them an injustice before the public.

Senator CAPPER. Do you think the farmers are entirely satisfied with the way things are going now?

Mr. ST. JOHN. No, sir; I do not, but I say there are many farmers, who are not asking for this legislation.

Senator CAPPER. Many farmers?

Mr. ST. JOHN. Many farmers; yes, sir.

Senator CAPPER. I thought you said all of them?

Mr. ST. JOHN. No, sir; I did not.

Senator CAPPER. Well, do you think that the majority of the farmers are satisfied?

Mr. ST. JOHN. Well, sir, in my territory half of the farmers tributary to our station are our customers, and in talking with them, and we have been talking over these things for the last four years, their troubles are ours, and I must say that not half of the farmers are clamoring for this class of legislation, in spite of the fact that from our own county seat 10 automobiles a day went out for two years to the farmers' homes, and they were lied to. These farmers were told that they robbed them, that the chambers of commerce had cupolas in their elevators in Minneapolis, and that a great deal of the grain that

went up there never came down to be weighed. They went much further than that——

Senator NORBECK. Who made those false statements?

Mr. ST. JOHN. Well, this was the Townley organization of North Dakota. They raised thousands of dollars and paid well-posted socialists to get Ford automobiles and go out to these people in their country homes in the country and indulge in this kind of stuff, defamation of chambers of commerce and big business generally. As a result of that—and during this period they were not even friendly to the Government; they were not friendly to much of anything; some of them got into the toils of the Government and are under sentence and serving time now; but this long process did create a great deal of unjust feeling, feeling that otherwise would not have existed among the people of Minnesota and North and South Dakota. You are hearing from that sentiment, not possibly as the Townley organization, but you are hearing as a result of that campaign.

The CHAIRMAN. Mr. St. John, you are going into a field new that is debatable, I suppose. I do not have any idea that the committee wants to pass on the Nonpartisan League in this legislation. We know there has been a great deal of controversy over it.

Mr. ST. JOHN. Yes.

The CHAIRMAN. And that there are two sides, and that they are very bitter. If we open up that question, in all fairness we ought to hear both sides of it. It is an immaterial thing, as far as I am personally concerned, in respect to this legislation. To my mind, while it is very desirable to know what the people of all classes in the country want, after all, when it comes down to us it is our duty, I think, to first inquire whether there is anything wrong with this system, and after we pass on that question, if we think there is something wrong, then it is within our jurisdiction and power to remedy it, and how can we remedy it? Now, do you think, from your experience in the grain business, that there is anything wrong that we can remedy in the matter of the grain exchanges or the boards of trade?

Mr. ST. JOHN. Yes; I believe there are things that can be righted and should be righted. I think we are all against manipulation of the grain. Whether that is a matter for the Secretary of Agriculture or law of Congress it probably is in some form or in some way, but I am not an attorney. The exchanges should stop that business themselves.

The CHAIRMAN. If, as a matter of fact, we do not do anything, they will not stop it, will they?

Mr. ST. JOHN. Well, I hope you will give them a law that will help them to stop it.

The CHAIRMAN. That is what we want to do.

Mr. ST. JOHN. I have some telegrams here. I failed to mention that I am the chairman of the Committee on Legislation of the Grain Dealer's Association that we have in Minnesota, North Dakota, and South Dakota, called the Tri-State County Grain Shippers' Association.

The CHAIRMAN. Do you want to put those telegrams in the record?

Mr. ST. JOHN. Yes; I would like to put them in the record.

The CHAIRMAN. Just read them to the committee, so that they can hear what they are, and then give them to the reporter.

Mr. ST. JOHN. As I said, this association is called the Tri-State County Grain Shippers' Association.

Senator NORBECK. Just for the record, does that include the farmers' cooperative elevators?

Mr. ST. JOHN. There are some farmers' elevators members but the majority are simply country grain dealers who maintain their offices in the country.

Mr. Mills R. Tackland, of Drayton, N. Dak., says that he is the manager of a farmers' elevator.

Senator LADD. Is that a cooperative elevator or farmers' elevator, in Drayton. I happen to know it?

Mr. ST. JOHN. It is a farmers' elevator.

Senator LADD. They are the ones that are bringing suit to prevent the enforcement——

The CHAIRMAN. Do you mean to say that that is simply a corporate name, Senator?

Senator LADD. Yes.

The CHAIRMAN. The firm name?

Senator LADD. Yes. We have three types in North Dakota.

Mr. ST. JOHN. That may be true, but Mr. Tackland told me personally that he is manager of a farmers' elevator. I would like to ask if there is any other farmers' elevator in the town?

Senator LADD. No.

Mr. ST. JOHN. That is the only one?

Senator LADD. Yes; that is not a farmers' elevator company. The farmers have an interest in it, but it is not a cooperative elevator.

Mr. ST. JOHN. I received these telegrams since arriving here:

D. P. ST. JOHN,
Raleigh Hotel, Washington, D. C.:

As chairman of legislative committee our association, please register our disapproval of Capper-Tincher bill in its present form; it will demoralize the present grain-marketing system and prove a severe burden to the producer.

J. H. ADAMS,
Secretary Tristate Country Grain Shippers' Association.

This telegram is from Albert Lea, Minn.:

D. P. ST. JOHN,
Chairman Legislative Committee Tristate Grain Shippers' Association,
Care Raleigh Hotel, Washington, D. C.:

Producers as well as grain merchants would suffer seriously by radical legislation affecting grain exchanges.

SPELTZ GRAIN & COAL CO.

The CHAIRMAN. Now, Mr. St. John, I think it is quite apparent from those telegrams and also from your testimony that, while very illuminating on the general proposition because of your experience, they still lack any concrete suggestion to the committee. For instance, one of the telegrams speaks of this bill in its present form as being disastrous. I think I can say for the committee that we do not want to pass any legislation that is disastrous to any honest business, but we would like to have you point out where in this bill this disastrous proposition is contained, and let us have something concrete.

Mr. ST. JOHN. We think the privilege given in this bill to the Secretary of Agriculture or any other one man of the right to close these exchanges would have a very deterrent effect on the volume of

trading, which is very necessary to maintain a proper insurance, if they are to protect themselves against their purchases.

I want to say further, supposing the Secretary of Agriculture is not friendly, but should be distinctly unfriendly and was of a very radical nature. Suppose he should turn out to be a very radical man himself. The harm he might do to the country, not only to the grain exchanges, but what would naturally follow in the lessening of trade might be very great, and no opportunity to later take the matter into the courts would relieve or offset the damage that might already have been done.

The CHAIRMAN. Yes; I think that is true, but would it satisfy your organization if, instead of giving this power to the Secretary of Agriculture, we should give it to a body of three men selected by the Secretary or selected by the President or by somebody else?

Mr. ST. JOHN. Why should not this violator, this manipulator, be so legislated against that the courts can go right and get him and make an example of him?

The CHAIRMAN. Well, now, tell us just how to do that.

Mr. ST. JOHN. Well, you have had here before your committee probably the best minds in the grain trade in the world. I might mention this man Barnes. As you know, he is looked upon all over the world as a great man, and he is certainly posted much better than I am on what might be done legally and effectively. You have had men of great importance here. Take these large millers of Minneapolis, such men as A. C. Loring and Mr. Crosby, who testified here yesterday. They are brainy men and men who are thorough Americans. They want to do justice to everyone regardless of whether they make a million or lose two. We in the country have confidence in that class of men, even though they are members of chambers of commerce. We believe this is a good country and a big one, and I think that this committee can afford to draw their conclusions from them. They are the best kind of timber in the United States.

The CHAIRMAN. Do you think we ought to pass whatever legislation those gentlemen suggest?

Mr. ST. JOHN. That is an awful question for me to try to answer.

The CHAIRMAN. But does not your testimony rather tend to that, if that is your idea?

Mr. ST. JOHN. Let me say that I would suggest a committee of three or five of those great representative grain men. Let one be the representative of the Quaker Oats; let one represent the Washburn-Crosby Mills of Minneapolis, probably the greatest in the world; let there be a State grain manager on it; we have some that we are not ashamed of; and let Mr. Barnes be on that committee. Let the four of them confer with three of the best men you can select from your committee and try to agree on a bill, if such can be done by governmental activity or by laws, and agreement on the laws that will actually curb this manipulation.

The CHAIRMAN. Now, Mr. St. John, if we carried out that idea—and I am casting no reflection on these gentlemen, by any means—but if we followed that idea in all of our legislative matters, whenever we had a bill to regulate the railroads we would get three of the biggest railroad men and follow their advice. If we had a bill to regulate the millers, we would get the millers to tell us what to do; if we had a bill to regulate wholesale grocers, we would get some whole-

sale grocers, etc,, and the result would be that our legislation would be all by men who might all be honest, but still perhaps unconsciously biased, and naturally selfish, as all people are who have a viewpoint from their own standpoint only. It is not the grain dealers we are supposed to look after here. If it was, we would let them legislate; but we are trying to also look after the people who produce the grain and the people who eat it. Somewhere their interests must be taken into consideration.

Mr. ST. JOHN. Mr. Chairman, when the Government had to have ships they went to different men to get ships to win this war, but they finally had to go to the shipbuilders, and then they got the ships.

The CHAIRMAN. And they made an awful mess of it, too.

Mr. ST. JOHN. Well, they made some mess of it before they got Mr. Schwab. Mr. Schwab was of great assistance to the Government because he knew how to get those ships built.

Now, you can not be expected to turn legislation over to the grain men that affects the grain men, but their interests are as large as any one's, and they should at least be consdiered, and I believe they are going to be. Some of them are experts; not only that, they are big men. They are the Schwabs of the grain trade. Our country is dependent on them. They grind the wheat into flour, and they have explained to you that the price is in a way immaterial to them. Mr. Crosby so testified yesterday on this stand, that his interest in the up or down of the price is immaterial, except as he wanted the country to prosper and the grain to bring a fair price. Where can you get information that could be better?

The CHAIRMAN. We are trying to get some from you, and we are trying to get some from Mr. Crosby, and all these men. We are not discarding them, and I do not dispute your proposition at all that they ought to be considered, but they are not the only pebbles on the beach, and they are not the only people interested in this legislation. They have a direct interest, and if they are as honest as they think, they may be unconsciously prejudiced, as made men are when their interests are involved; but I think it can be assumed, because it is admitted universally, as far as I know, that there is something wrong in this grain business.

Mr. ST. JOHN. We admit that manipulation in the exchanges is wrong and costs us grain fellows lots of money sometines when we are not looking.

The CHAIRMAN. As far as I am concerned, I have only one desire, and that is to right it, if we can. Maybe that is an impossibility, but I am inclined to think it is not. It seems to me that we can remedy it.

Mr. ST. JOHN. We believe that the power to exact this insurance in these exchanges can be effected very easily by a kind of legislation, but you must be careful about it, and not drive the fellow away. We want to support the market.

The CHAIRMAN. I think it is true, as testified by one of these witnesses, that the agitation for legislation sometimes arises, and then the desire to correct it exists only so long as the agitation is kept up, and when it is ended the evils spring right up again.

Mr. ST. JOHN. I want to say that our usual channels for disposing of corn, the consumptive channels that we have had over a period of

years in this business, this year seem to have been dried up, killed, stopped. There has been a continuous market all the time for this corn, oats, wheat, and cereals, for cash, at a price higher than it used to be 10 years ago. A lot of these fellows have thought it was a good investment to take these futures, and that permitted the big storage elevator men to buy and hold against July and September sales. If it had not been for that speculative element, provided by these great exchanges in this country, our corn and our oats doubtless would have been like our rice and our wool. I honestly believe that, Mr. Chairman. It is true that some of these same risks were taken back in the West by the people that grew the corn, but if they wished to speculate, I do not know but what that was legitimate. The market is coming back now. We obtained in that country 10 or 15 cents more for corn than in February.

Senator LADD. What is your local market for corn at this time?

Mr. ST. JOHN. When I left, we were paying 40 cents for yellow shelled corn.

The CHAIRMAN. How low did it go down?

Mr. ST. JOHN. We bought as low as 28.

The CHAIRMAN. Twenty-eight?

Mr. ST. JOHN. Yes.

The CHAIRMAN. Of course, that was below cost of production this year?

Mr. ST. JOHN. That was below cost of production this year; yes.

The CHAIRMAN. There have been years, of course, I know, in places where I have lived, where corn could be produced at a profit at 25 cents a bushel.

Senator LADD. That was when land and labor were cheap.

The CHAIRMAN. Yes.

Mr. ST. JOHN. Well, labor is getting cheaper with us. In coming to Washington I was surprised to find that as I came East, and the farther we got from the West, everything seemed to be higher. It seems to me that there is some profiteering around this town. They charge us fellows from the West a lot to live here, and I am going to get home as quickly as I can.

I appreciate the opportunity of having appeared before the committee, and I appreciate what I have heard in Washington.

The CHAIRMAN. I think the committee feels very much obliged to you.

Senator NORBECK. Thank you, Mr. St. John.

STATEMENT OF MR. C. H. WRIGHT, PRESIDENT OF THE OMAHA GRAIN EXCHANGE.

Mr. WRIGHT. Gentlemen, I am here just to enter a general protest to the bill as drawn, as we feel that it will interfere with the grain business in general, and I wish to protest against the features of the bill. What we object to particularly is the matter of making reports on cash grain and the power given to one man to expel an exchange as an exchange.

Senator NORBECK. I beg your pardon. I did not hear you. You raised two objections. What was the first?

Mr. WRIGHT. The first objection we make is to the making of the reports of transactions on cash grain.

Senator NORBECK. Oh, yes.

Mr. WRIGHT. We feel that in the matter of hedging, it is very necessary and, as far as speculation goes, we feel it has a tendency to stabilize the market, and that pending legislation has driven a good deal of the speculative trading out of the markets. We believe that is somewhat accountable for the erratic declines that we have had in the market in the past few months.

The CHAIRMAN. Do you think that the pending bill has had a bad effect on the grain market?

Mr. WRIGHT. Not this bill, any more than other bills that have been pending and introduced to curtail or limit operations on boards of trade.

The CHAIRMAN. Do you think that there should be no legislation?

Mr. WRIGHT. No; I do not think that, Senator.

The CHAIRMAN. Then, give us an idea of what you think ought to be done?

Mr. WRIGHT. I think there have been suggestions made and amendments to this present bill that would make a bill reasonably satisfactory to the grain men.

The CHAIRMAN. What would you suggest in the way of amendment on this question of control being given to the Secretary of Agriculture?

Mr. WRIGHT. Well, I think this matter should not be in the hands of one man, and it should be handled very carefully by whoever has control of it. Of course, I have no doubt that any committee that would have this matter in charge would use common judgment and, in investigating complaints on violations of the rules or laws of the boards of trade, would be very careful before expelling an exchange, and would undoubtedly make a complete investigation; but I think it would be better to have a committee of three men rather than to put it in the hands of one man.

Senator CAPPER. Whom would you have selected for that committee?

Mr. WRIGHT. Well, I do not know that I am in a position to make any suggestion along that line, Senator Capper; but we feel that it delegates too much power to one man. We, as a whole, are opposee to governmental interference in the grain business or any other business, any more than absolutely necessary for good government.

Senator REED. Mr. Chairman, I want to ask the indulgence of the committee. I am interested in this question, not only with reference to this particular bill, but in a broader character of legislation. I wonder if the committee would regard it as a piece of impudence on my part if I would ask the privilege of asking some questions as we go along?

The CHAIRMAN. No; Senator Reed. We would be very glad to have you consider yourself a member of the committee.

Senator REED. I would like to get this question down to brass tacks. Do you know anything about the grain business now that requires outside management of it?

Mr. WRIGHT. How do you mean; in what way?

Senator REED. Well, do you conduct the business on your exchange in such a manner that you believe that there should be appointed one man or a dozen men to govern that exchange or to prepare rules for it under which it must run?

Mr. WRIGHT. I do not feel that there is any particular phase of the grain business, Senator, that requires the supervision of any committee or any Government official. The grain business, I think, is conducted absolutely openly and above board. Our records are open at all times for the inspection of any Government officials who see fit to investigate them. We, in the grain trade, have nothing to conceal from the general public or from the Government or anyone else.

Senator REED. Why do you say, then, that it might be all right to have a committee, if a committee of three or four were appointed instead of one?

Mr. WRIGHT. I say that, Mr. Senator, because it is evident that such a clause is going to be inserted in this bill, if the bill is passed, but I think it would be better to have three men to supervise it than one.

Senator REED. This bill has not passed yet.

Mr. WRIGHT. I understand that.

Senator REED. You say, then, when you speak of three men instead of one, you mean that if you are going to have grain control forced upon you you would prefer to have it put into the hands of three men instead of one man, but you do not want it at all.

Mr. WRIGHT. That is absolutely true. That was the intent of my remark. I meant to leave that impression, at any rate.

The CHAIRMAN. I understood you to say that you thought some legislation desirable.

Mr. WRIGHT. No; I did not say that.

The CHAIRMAN. You think there should be no legislation?

Mr. WRIGHT. Well, I did not say that there could not possibly be any legislation that would be helpful to the grain men as well as to the general public; but if we have to submit to legislation or governmental control, we feel that we would be much safer as a grain exchange under the control of three men than we would be under the control of one man.

Senator REED. Now, what kind of control can these men exercise that will be beneficial?

Mr. WRIGHT. I can see no good such a commission could do, as far as the regulation of the grain trade goes.

Senator REED. How long have you been in the grain business?

Mr. WRIGHT. About 20 years.

Senator REED. Then you started in pretty young.

Mr. WRIGHT. I started in pretty young.

Senator REED. Before the grain exchanges were established in Omaha and in Kansas City, was there a grain exchange in Chicago?

Mr. WRIGHT. Yes, sir.

Senator REED. Do you recall far enough back to reach a time when there was no such thing as a general grain exchange in the cities of the United States?

Mr. WRIGHT. No; I can not go that far back, Senator.

Senator REED. But before you had a grain exchange in Omaha, what was the method of buying grain? If a farmer wanted to sell grain, how would he proceed? Who bought it?

Mr. WRIGHT. Well, principally to his local elevator and to the firms that were in business in Omaha at that time.

Senator REED. Let us take a farmer out in the interior of the State of Nebraska. How did he get a market for his grain?

Mr. WRIGHT. How did he get a market for his grain?

Senator REED. Yes; if he had a thousand bushels of wheat that he had thrashed, how did he get a market for it?

Mr. WRIGHT. The grain business has always been, as far back as I can remember, based on the Chicago option market. We would always take the close of the option on a certain day and base our bids to the country on that option. We would send out hundreds of card bids through the country——

Senator REED. But you are not answering my question. Just suppose that I am a farmer with a thousand bushels of grain.

Mr. WRIGHT. Yes.

Senator REED. Out in the interior of Nebraska.

Mr. WRIGHT. Yes.

Senator REED. And my nearest town is the railroad station. How would I sell my grain?

Mr. WRIGHT. Why, just haul it into town and sell it to the local evator man.

Senator REED. Yes; I have more than one man to sell to generally in the small towns?

Mr. WRIGHT. I know of no small town which has not some competition, two to five elevators in Nebraska.

Senator REED. I am speaking of the time before we had the grain exchange in Omaha.

Mr. WRIGHT. As far back as I can remember, even when I started in, there were two and three local elevators.

Senator REED. That would bid against each other for this wheat, would they?

Mr. WRIGHT. Yes, sir.

Senator REED. Did they always give the Chicago price less the freights and a small commission?

Mr. WRIGHT. A reasonable profit.

Senator REED. Did they not sometimes buy away below the Chicago price in those days?

Mr. WRIGHT. Yes, sir.

Senator REED. These grain dealers?

Mr. WRIGHT. Oh, yes; that is true in the earlier days, when the competition was less keen than it is now.

Senator REED. I am a little older man than you are, and I can remember when I used to haul wheat to town, three or four fellows would come out and stick their hands down in the wheat, and one man would offer me a certain price, another man would offer me a half a cent more. I would have to take that price. I did not know that there was such a thing as a Chicago market. I took what I could get from these two or three men. I strongly suspected that they never bid against each other in any very earnest or active way. Now, is not that just about the condition that existed before the general establishment of grain exchanges in this country?

Mr. WRIGHT. Yes, sir; it was.

Senator REED. Since the establishment of the grain exchange at Omaha and Kansas City and other large points of concentration and distribution, has there been a development in the grain trade whereby the farmer coming in to the small railroad station now is able to know

the price of grain and what he ought to get, of whether to sell it direct by telegram to the grain exchanges, so that he does get the price? Has that system grown up?

Mr. WRIGHT. Very generally.

Senator REED. So, as a matter of fact, now, instead of a man being left as he was when I was a boy to the bidding of two or three individuals in the market, who might or might not have any regard for the Chicago price, to-day the farmer, through the grain exchanges, is able to get not only quotations but he is able to write to any responsible grain dealer and get the market price?

Mr. WRIGHT. There is nothing to prevent a farmer, if he wants to secure the market, from loading his own grain right on the car and shipping it direct to the commission merchant or the grain dealer in the terminal market.

Senator REED. Is it not a fact that if I were out in the interior of Nebraska to-day and did not know a single man on the grain exchange, I could safely send my wheat to any member of that exchange, with the assurance that I would get the market price?

Mr. WRIGHT. Absolute assurance. You could go further than that, if you wanted to. Out in Nebraska, you can produce grain, load in onto a car, and ship to Omaha and sell it on the exchange yourself.

Senator REED. Take a sample of it right into the exchange and sell it?

Mr. WRIGHT. Absolutely; yes, sir.

The CHAIRMAN. Right on that point, suppose Senator Reed were a member of an organization of producers of grain. Could they do it?

Mr. WRIGHT. Not unless they were members of our exchange.

The CHAIRMAN. Can they be members of your exchange?

Mr. WRIGHT. They may, under the rules of our exchange.

The CHAIRMAN. They are admitted to-day?

Mr. WRIGHT. They have been admittable for over two years in Nebraska, Senator.

Senator REED. I do not think, Senator Norris, that there would be any opposition in the Senate to a law providing that these exchanges should be admitted if we have authority of that kind under the Constitution—a proposition I very much doubt, unless we hook it onto the interstate commerce clause.

The CHAIRMAN. This bill, Senator Reed, puts it under the taxing privilege.

Senator REED. Well, of course, that is a clear abuse of the Constitution. As I understand it, you are levying a tax to put them out of business. Maybe that has to be done, but it is certainly stretching the Constitution.

It is a fact now that a lot of farmers organized together could sen their agent to your market to-day and he could sell their wheat in Omaha?

Mr. WRIGHT. No; that is not true, not unless that organization has a membership in the Omaha Grain Exchange.

Senator REED. Exactly; but individuals can come——

Mr. WRIGHT. A producer can produce his own grain and ship it and sell it on our exchange.

Senator REED. Why do you exclude anybody from the privilege of selling? There is a reason for it; what is the reason?

Mr. WRIGHT. The reason is to allow the producer to sell his own stuff, if he prefers to, but we could not allow one man representing a number of producers to do that.

Senator REED. In other words, he would get the full benefit of the exchange and not do anything toward its maintenance?

Mr. WRIGHT. This organization was built up at great expense, and the labor of years.

Senator REED. In addition to that, I suppose you try to find men who are financially responsible to meet their obligations?

Mr. WRIGHT. Absolutely; men of good morals and good business integrity.

The CHAIRMAN. For instance, in your exchange in Omaha, does the farmers' union have membership?

Mr. WRIGHT. No; they do not, Senator.

The CHAIRMAN. They have tried to get in, have they not?

Mr. WRIGHT. They did not try. In fact, I have been on the board of directors for several years and Mr. Gustafson has been before our board. He is one of the committee of 17. Mr. Shorthill has also been before our board.

The CHAIRMAN. What were they trying to do before your board?

Mr. WRIGHT. They were asking whether or not they could become members of our exchange, and we assured them that they could become members of our exchange.

The CHAIRMAN. Why did they not become members of it?

Mr. WRIGHT. I do not know why. They have never made an application before us, and yet they have had that privilege for over two years.

The CHAIRMAN. Did or did not this have anything to do with it, that you required of them that they must abolish the custom that they have had in the farmers' union of distributing their profits at the end of the season?

Mr. WRIGHT. On a patronage dividend basis.

The CHAIRMAN. And you could not permit them in your exchange as long as they did that?

Mr. WRIGHT. No, sir; under our rules we could not do that, Senator.

The CHAIRMAN. You have not changed those rules?

Mr. WRIGHT. No; we have not changed those rules.

The CHAIRMAN. Is not that the reason that the farmers' union, for instance, is not a member of your board of trade?

Mr. WRIGHT. That may have something to do with it.

The CHAIRMAN. There was not any question about their financial responsibility or their agreement to abide by the rules, with that one exception, was there?

Mr. WRIGHT. Of course, they would have to file with us a financial statement before anyone could become a member of the exchange. They would have to show some financial responsibility.

The CHAIRMAN. Did they object to that?

Mr. WRIGHT. None whatever.

The CHAIRMAN. Is it not a fact that the only controversy that you had about the admission was that one provision that controlled, as I understand, everywhere, that the farmers' union operates under a provision providing for a distribution of profits at stated times and that provision was contrary to your rules?

Mr. WRIGHT. That is, as we explained it to those gentlemen when they were before us, that we could not take them with that clause in their by-laws.

Senator REED. Now, why did you object to that? What business is it of yours if they see fit to divide this profit amongst themselves, amongst those farmers?

Mr. WRIGHT. Well, we think that gives them an advantage over the commission merchants and elevator men.

Senator REED. Why?

Mr. WRIGHT. It simply means that there is no competition in the grain business, because that business would be all controlled by the one organization which, in our market, would be over 50 per cent of the shipments.

Senator REED. Well, if they did not divide up the profit, and they brought it in, they would control just the same, would they not?

Mr. WRIGHT. Oh, yes; they would control it.

Senator REED. I do not see how it hurts you if at the end of the year, or at any other period, these men who ship their grain to a common factor, if you please, a representative, should meet and divide the proceeds. I can not see how that hurts you. I wish you would tell me.

Mr. WRIGHT. Well, it is in the nature of a rebate when it is taken strictly under the rules of an exchange. It is a split commission proposition. It places the legitimate commission man or grain man at an absolute disadvantage in the fact that these people are virtually splitting commissions with the shipper. I can not see why the organization insists on coming in on their patronage dividend basis.

The CHAIRMAN. They are doing it, as I understand it, to give, as far as possible, the profit that there may be in the business to the men who produce the stuff they are handling.

Mr. WRIGHT. I think, Senator, a man who produces five cars of grain, as compared with the man who produces one car of grain, should get five shares of stock in an organization, as compared to the man who produces one car.

The CHAIRMAN. Of course, that would be another way of reaching it, but they are not organized that way. As I understand it, their reason for not organizing that way is to prevent somebody, by stock control, manipulating their organization. What difference would that make to the grain exchange, whether they hold stock in proportion to the amount of grain they produce or whether they divide the profits that way without holding the stock?

Mr. WRIGHT. That would compel all the men they do business with to be members of their organization.

The CHAIRMAN. Well, suppose they did. As I understand their theory, it is that they want to get all the profit they can out of the wheat, for instance, into the hands of the men who produce the wheat. Now, if they should compete by doing that with some man who is acting on a commission basis, even if they competed with him to such a serious extent that it might occasionally put him out of business, why, still is not that the privilege of the fellow, if he can organize them, by producing wheat to get all the profit out of it he can?

Mr. WRIGHT. Of course, the whole proposition is that they do not seem to be willing to come into the exchange under the present rules of the grain exchange.

The CHAIRMAN. Of course, if they should come in under your rules, you would have to change your articles of incorporation?

Mr. WRIGHT. Yes. On the other hand, if we let them in under their articles of incorporation we would have to change our rules.

The CHAIRMAN. That is just the extent of it. One side or the other must make a change.

Mr. WRIGHT. Yes; that is true.

Senator REED. Now, let us see about that. It amounts to this, does it not: A number of gentlemen get together and at considerable expense they organize an exchange and provide rules for its operation. They build up a business, and then along comes an outsider who says, "I want the benefits of that business," without being a party to building it up or without helping to pay for it, and he says, "I insist on coming into the house that you built and enjoying the privileges that you have." Is not that about where it comes out?

Mr. WRIGHT. Yes; and thereby destroying our organization.

The CHAIRMAN. Now, is not this true: You will admit anybody, and they would come in under your rules excepting for that one provision, and the amount of money you charge Senator Reed or me, if we wanted to be admitted you would charge to them if they were willing to pay it; in other words, they would comply with your own rules, as far as any payments are concerned, and as far as any responsibility is concerned, excepting that when it comes to dividing their profits they are going to do it differently, and they think, or they claim at least, that they could not maintain their organization so as to get that profit without that provision in it that you object to. As I understand it, their claim is that that is fundamental in order to prevent an organization of producers from having their organization possibly controlled by somebody outside or some one on the inside who would get control of the stock and use it for some selfish purpose and thus prevent them from carrying out the object of the organization. They do not ask to be permitted to come in, do they, on any other conditions than anyone else, with the one exception that is noted?

Mr. WRIGHT. Well, I know of no other condition, but that condition is fatal.

The CHAIRMAN. Yes; I understand that that is fatal.

Senator REED. Is there anything to hinder 100 farmers from getting together, shipping their wheat to a market, and selling it on the market; is there any rule that you will not buy from those people?

Mr. WRIGHT. Well, they would have to have membership in the exchange.

Senator REED. No; suppose they do not have membership. I can come in, and I am not a member of anything; but I bring 1,000 bushels of wheat to the Omaha market, and it is good wheat, and I offer it to you. Now, you buy it from me, do you not?

Mr. WRIGHT. If you produce the wheat and bring it in there I could buy it from you on the exchange.

Senator REED. Suppose three or four farmers get together and ship their grain together, and I go in to represent them?

Mr. WRIGHT. You could not do it under our rules.

Senator REED. Then you have closed that Mecca; you have a combination among yourselves, or an agreement by which you will

not buy grain from anybody but a producer who is a member of that organization?

Mr. WRIGHT. We have to have such a rule.

Senator REED. So if 100,000 farmers got together and organized and had plenty of wheat there would be no place in the world for them to sell it; is that the situation, or could they go and sell it to the millers and the people who wanted to consume it?

Mr. WRIGHT. Oh, they would have a number of outlets for it, of course, the elevators and the mills.

Senator REED. They could sell it to an elevator, could they?

Mr. WRIGHT. Oh, yes.

Senator REED. They could sell it to the mills?

Mr. WRIGHT. Yes, sir.

Senator REED. Is there any such market?

Mr. WRIGHT. A miller's market?

Senator REED. Yes.

Mr. WRIGHT. There are local mills throughout the State that they can sell it to, or in Minneapolis or any other market that they want to.

Senator REED. The only thing, then, that they are denied, is the privilege of selling it to the members in your exchange?

Mr. WRIGHT. Any man can sell grain.

Senator REED. But the only thing they are denied is that privilege?

Mr. WRIGHT. They are denied the privilege of shipping it in in a combination or organization.

Senator REED. But I say when that combination or organization ships its grain the only privilege it is denied is the privilege of trading through your organization, but these millers can trade with them; they can ship abroad; they can still ship to the elevators?

Mr. WRIGHT. Absolutely.

Senator REED. All that is denied, then, is the mere privilege of selling that grain to the members of your exchange; that is all that is denied?

Mr. WRIGHT. Oh, yes; he can sell to a member of our exchange, but they can not be a member of our exchange.

Senator REED. They can sell to members of your exchange?

Mr. WRIGHT. Oh, yes.

The CHAIRMAN. They could not sell on your exchange?

Mr. WRIGHT. They could not sell on our exchange.

Senator REED. But they can sell to any member of your exchange?

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. Oh, yes.

Senator REED. Now, if you have 100 members in Omaha, and I go in there representing a hundred farmers, with a train load of grain, I could offer that to any one of those members, and they are at perfect liberty to buy?

Mr. WRIGHT. No; you can not do that. You could ship one car to each one of those members, but you can not come in.

Senator REED. I say, I can go to the member, but I can not go into the exchange and offer it to them?

Mr. WRIGHT. That is true.

Senator REED. The only thing I am denied is the privilege of the floor of the exchange, but I can go to their offices and offer it?

Mr. WRIGHT. Yes, sir.

Senator REED. So that the only thing I am denied, then, is selling on the floor of the exchange?

Mr. WRIGHT. The privilege of the exchange floor, under the rules of the exchange.

The CHAIRMAN. That denies them whatever market privileges you have, does it not?

Mr. WRIGHT. Well, why shouldn't it?

The CHAIRMAN. I am not saying whether they should be, but I want to know whether that is so or not?

Mr. WRIGHT. Until they become a member of our exchange, of course, they are denied.

The CHAIRMAN. Now, suppose Senator Reed should come in there representing an organization of farmers. If that grain that he had was sold on your exchange it would have to be sold through some member of your exchange?

Mr. WRIGHT. Absolutely.

The CHAIRMAN. And he would have to pay that member a commission?

Mr. WRIGHT. Absolutely; just a very small commission.

The CHAIRMAN. He can not go on the exchange and sell it to anybody. In fact he could not go into the exchange at all?

Mr. WRIGHT. Not unless he was a member. He would have to get a visitor's card.

The CHAIRMAN. Yes.

Senator REED. In other words, if a man were running a grocery store in his own building, I can not take my potatoes in and set them down and proceed to market them inside his store? I would have to buy a partnership in the store, or I would have to rent the privilege; but I can stop in front of his store and offer my potatoes, or I can take them to any store that buys potatoes and sell them.

Mr. WRIGHT. That is a very good illustration.

The CHAIRMAN. Well, do you think that is a good illustration? Is your grain exchange like a grocery store? He has certain rules; he will admit anybody.

Mr. WRIGHT. Well, I would not be admitted into his store to transact business.

The CHAIRMAN. Yes; anybody who will comply with his rules. You do that?

Mr. WRIGHT. Yes.

The CHAIRMAN. I could join your grain exchange?

Mr. WRIGHT. Yes; if you get by the committee, you could.

The CHAIRMAN. Now, your grain exchange is a public market, is it not, and a grocery store is a private market, is it not?

Mr. WRIGHT. No; it is a public market.

The CHAIRMAN. That is the difference between your grain exchange and a grocery store.

Mr. WRIGHT. I was talking of the principle of the illustration there.

Senator REED. Let us take the public market here in Washington. Anybody can go down to a stall, but nobody can sell goods in that stall except the man that runs it, but he can sell to the man that runs the stall.

Mr. WRIGHT. That is true.

Senator REED. There is not anything, then, to hinder the farmers of this country in establishing, if they wanted to do it, through this general organization of theirs, a market of their own, right across the

street from you in Omaha, and receiving the farmers grain there and handle it through similar organizations over the country? There is nothing to hinder that?

Mr. WRIGHT. Absolutely nothing. They have done it in the stock business at South Omaha. What we are trying to do is simply to protect our organization. We have members there that have made it their life work. They have everything that they have invested in the membership in the business in Omaha and other exchanges.

Senator REED. In addition to the investments that men make in memberships, is or is it not a fact that they establish a clientele and have their business ramifications running out, many of them, into several States, and that that is an element of very great value to them?

Mr. WRIGHT. It is the whole business of the commission man, that is the clientele. That is the part of our business that is most vitally threatened, the commission end of the business, from the farmers' cooperative movement.

Senator REED. I have no further questions to ask.

Mr. WRIGHT. That is all, Mr. Chairman. I thank you very much.

The CHAIRMAN. We are much obliged to you.

STATEMENT OF MR. B. L. HARGIS, PRESIDENT OF THE KANSAS CITY BOARD OF TRADE.

Mr. HARGIS. Mr. Chairman and gentlemen, I have not a prepared statement, but I have a general statement which I would like to make, which has to do with organized exchange trading.

It seems to me that the impression has grown in the public mind from year to year that exchanges are more or less of a combination of men who operate for selfish interests. On the other hand, quite the reverse of that is the case. The organized grain exchanges are the result of evolution. It has developed to its present point to meet the requirements of the American producer and consumer. I believe that. I have very close to my conscience the needs of the American producer and the American consumer, but if I have a prejudice, it is in favor of the producer. I was born in the country and lived there until I was some 14 years old, and have always been in very close contact with the producing element. As a matter of fact, in our own firm, we are quite closely in touch with the countrymen. We receive a great deal of wheat direct from the farmers on shipments. Some of my best friends are among that element.

I realize that a grain man usually is likely to be misunderstood if he states that he has such a thought in mind, but I have that thought in discussing this matter with you, and I want to be absolutely conscientious in any statement that I make.

The Kansas City Board of Trade has from year to year made rules as the development of the trade made rules necessary. They have been made not for the selfish interests of the men in those institutions, but for the purpose of providing the various facilties for the expeditious handling of the grain crop from the producer to the miller or the ultimate consumer. Through hedging facilities, through futures market is reflected, particularly in Chicago, the opinion of everybody in this country, as to the value of the commodities, that are necessary to all people, quite as much so to the consumer as to the producer. That is my opinion of it.

The CHAIRMAN. Mr. Hargis, it is now 1 o'clock, and I think we had better take a recess here until 2.30 o'clock.

(Thereupon at 1 o'clock p. m. a recess was taken until 2:30 o'clock p. m.)

AFTER RECESS.

The committee reconvened at the expiration of the recess, Senator Norris presiding.

The CHAIRMAN. We will proceed now, gentlemen.

STATEMENT OF MR. B. L. HARGIS, PRESIDENT OF THE KANSAS CITY BOARD OF TRADE—Continued.

Mr. HARGIS. I spoke this morning, Mr. Chairman, of the objectives of exchanges as I saw them and the fact that they have in mind in the execution of their orderly business and in the making of rules the best interests of the entire public. I think that is as nearly separated from a selfish interest as it is possible to imagine in any organization where the human agency is involved.

These exchanges have come with the growth of the country. Originally, as you know, the marketing was done by the farmers bringing in their products on court day and selling them. Later as our country developed our farm lands were opened up by the rails and country elevators came into existence. Later the production was too great for local consumption and points of advantage from their position as to transportation were used for the erection of elevators and the assembling of men for the purpose of buying and selling grain and grain products.

The natural thing was for these men to come into a trade relation that would make the performance of their business the easiest to handle with the greatest celerity possible. It became necessary to make rules of government in order to have uniform practice, fair play, and to insure the sanctity of the contract. That is the birth of the American organized grain exchange.

Within my recollection, 20 years ago, there were many mispractices on exchanges. The man who did not have quite the right idea of things indulged in trade practices or prejudices that were not to the best interests of everybody. As fast as these have come to the attention of the exchanges they have from time to time remedied conditions so far as possible, or in the light of the best judgment of the members of the organizations.

There is not any question that at the present time, as Mr. Barnes stated to you the other day, the morale is as high as can be had. I would not state to you that there are not mispractices on the boards of trade. I believe there are abuses. I believe that they should be cured. I believe, on the other hand, that they are very incidental and that to attempt to cure them by legislation would result in so great a disturbance of this finely balanced machine, as to cause great loss both to the producer and the consumer of the country.

I can not put before you too clearly the fact that my best judgment is that the organized grain exchange to-day is the most finely balanced commercial machine in America. It is extremely sensitive, because the opinion of everybody is reflected through it as to the values of the commodities handled on it.

Now, it is a very difficult matter in attempting to make corrections by legislation not to get into fields where this balance will be thrown out of its even keel. I would not say to you that sometimes this balance is not thrown out temporarily by the operation right now from day to day of the trade; but it soon rights itself.

Another thing to which I would like to call your attention is that the very great amount of pressure which is being brought for correction is one that almost invariably comes when men have been injured by losses. It seems that the most natural process, then, is to come to Congress and ask for enactments to cure the difficulties. With all respect to the great wisdom of the Congress, I in my own mind doubt if there are 500 men—I mean grain men—who sufficiently understand the technicalities of the trade to reassemble or perfect this machine so it will operate as well as it does at present.

You want to know something of the abuses. I must admit to you that I think manipulation is a grave abuse on the exchange when it is indulged in. I think, on the other hand, that practically all manipulations, with few exceptions, have been on the long side of the market. It must be apparent that it is a very much easier thing to manipulate by purchases than to manipulate by the short selling, of which we have heard so much. The man who purchases can take the commodity. The man who is the short seller for the pure purpose of depressing prices with the hope of buying back his goods later at a profit to himself runs a very great number of chances. He must be always faced by the fact that there are men who will be able to take advantage of bargain rate commodities when they are offered at lower than their actual commercial value.

In the matter of legislation you have to consider in this equation what the effect of it will be on the public mind; what it will do to the futures market; which is the prime thing in the economical movement of grain from its source to its ultimate destination. I believe that any sort of legislation that is enacted will tend so greatly to reduce speculation as to make hedging a most difficult thing, attended with unusual hazards, and, therefore, will reflect a lower price in its result to the producer and a higher price to the consumer than if the market were left untrammeled. The thing you must consider in reaching your conclusion is whether a narrow market, which will be produced by legislation and the interference with the contractural obligation which will come under legislation—whether those things will so impair the efficiency of the machine as it now operates as to make it a desirable thing to substitute regulations for the free operation of exchanges.

Those matters should have your most careful consideration. I think that the agitation which was started last fall by the governor of a western State regarding the depression in prices, the newspaper notoriety which was given to the plea for holding wheat for $3, and the statements which were made that there was a demand which could take this grain at those prices, have operated greatly to the detriment of the producer and greatly to the detriment of the grain exchange, in that the legislative agitation, the press criticisms, etc., have driven investment buyers away from the market. I would not submit to you that prices would have done other than they have—that is, gone down very materially—but I believe that has been accentuated by these efforts to correct, which I know are well

intended and sincere efforts, but it just happens that where you have the registration of public opinion all the while as to the value of a commodity, and when that registration is in the form of open contracts where there is a personal liability attached, as soon as you surround those contracts with suggested conditions that might in any way impair them, you get a degree of timidity that makes people keep their funds in the bank or out of that business. Therefore, we have had very narrow markets ever since futures have been opened.

The result of those narrow markets has been a wider daily fluctuation than would be the case under normal conditions. This daily fluctuation has had other causes which contributed up to it. The disorganized foreign exchange and the great hazards surrounding the forwarding of our surplus supplies to other countries have made the market very sensitive to any gossip that came as to their financial condition. The very great changes made by the Department of Agriculture in the estimates of wheat production last year have had an influence in the violent price fluctuation. The tight money market has had much to do do with it. I am sure we are all aware of the fact that in September, 1919, the Federal reserve loans, the currency expansion, had reached a point where they sought to contract them by advancing interest rates. In spite of those efforts this expansion continued until May, 1920. Then there begun to be a gradual retraction in the loans and in the currency expansion. But commodity prices stayed at the very high level until May of 1920. Then there started a decline. Wheat felt that decline in July.

You have had evidence here, and probably will have additional evidence, that on the Kansas City market wheat wheat fluctuated 28 cents in the six weeks prior to the reopening of futures, which was July 15, 1920, and that beginning July 15 and for two weeks afterwards wheat broke 63 cents in Chicago. That was cited, I think, by Mr. Taters as the reflex of reopening futures.

As a matter of fact, here is what occurred: When futures were reopened the public did not quite know how to invest its money. It had not determined as to whether prices were too high or too low. The men who had stocks of wheat on hand attempted to hedge. When the weight of those stocks was dropped in the pit it entailed a very serious loss on them; men at terminal markets. Undoubtedly it entailed losses on the man in the country, but the first impact was such that the market was not strong enough to withstand that blow without sagging. It was just like a tumbler jumping on another man's shoulders; he gives under the weight of impact, but ultimately he comes up again. That wheat came back again to something like its true commercial level. After having broken from about $2.75 to $2.10 it worked back to about $2.45. That is attributed by some to the reopening of futures. It is an incident to the reopening of futures.

I submit this to you: The larger the volume of trade the less likelihood there can be of manipulation. It must be apparent to anyone that it is a more difficult thing to deflect from its proper course a large object, a large operation, than it is a small object or small operation. Therefore, the broader your speculative trade the broader your hedging market and the greater the stability of prices. It takes a most unusual man—it would almost take a combination of men—to deflect the grain market with open trading, free futures trading, out of

its proper course and keep it out of its proper course for any considerable length of time. It takes also men of very large means improperly to influence the market upward. They can do that in certain deliveries toward the fag end of the crop year, but ordinarily that is a very difficult thing to do. But I think that downward or short manipulation is, with very few exceptions, almost an impossible thing. It does occur sometimes, but the "short" usually pays the penalty.

Another thing which should be taken into consideration is that with all the hue and cry over the decline in wheat values, the price deflation has been very much less radical than in most other commodities.

Some weeks ago I had the opportunity of spending some time with Senora Agresti, who had been the private secretary to David Lubin, the founder of the International Instituto of Agriculture at Rome. Lubin was an American who felt that the producers of the world were entitled to know the production of the world's crops, so they could make calculations as to what ought to be something of the selling values. He went to our own Government and found no support. He traveled the various courts of Europe and found no support until he met the King of Italy. Finally, the Institute of Agriculture was set up at Rome under the patronage of the Italian King. They have attempted from year to year to assemble figures on world supplies, and those figures are accepted as being as fairly authentic as we can get.

Senora Agresti was Lubin's secretary to the time of his death. She is a very brilliant and understanding economist. Her idea of the stabilizing of things is to extend futures trading to other commodities. She said to me that she believed that the great fluctuation in steamship rates for export might be stabilized if there were an exchange where charters on ships could be dealt in for future delivery. She believed that if there were an exchange and organized boards of some sort where the various moneys of the world might be traded in, not for to-day but three months hence, it might serve to stabilize international exchange. She has given over 20 years or more to the study of this subject. I merely cite that to you to indicate that those who have used years and years in the study of this problem feel that there is a stability fixed in forecasting the future in a speculative way.

The CHAIRMAN. While you are on that subject—I do not know that it has a direct bearing on the subject we are considering, but it is an interesting thing—have you formed an opinion as to whether that International Institute of Agriculture was a benefit to the producers of the world, whether it stabilized the market?

Mr. HARGIS. I would not venture to say that it has stabilized the market. It has at least given us some basis for figuring the world's production. It is the assembling point. For instance, it is always practically impossible to find out what Russia's production is. Figures assembled there are approximations. But I believe it gives us a very general idea of how much the world's production may be.

There is one thing that you can never figure. No organization can figure what the consumption of a commodity will be. You can get in a rough way at the production, but you can not tell how much people are going to eat. In this country, as Mr. Barnes said the other

day, there has been an apparent underconsumption of from sixty to one hundred million bushels of wheat. We do not know how to calculate it.

The CHAIRMAN. That institute is based on a very beautiful theory. I have gone over it with Mr. Lubin at some length, and I have also talked with his secretary. She appeared once before this committee. But it always seemed to me that it was a practical impossibility to carry that theory out, because the theory was that they would get statistics from all over the world and assemble them at their headquarters, and then they in turn would send out to all the countries the result of the examination of those statistics.

Mr. HARGIS. That is right.

The CHAIRMAN. In the first place, they were handicapped and always will be unless the various nations that are producing different things and are going to give information will in some way furnish to this institute reliable and prompt information before it gets around to them and back again to the world and the news is old and the market has been affected through other means of gaining the information. I do not see just how it is going to be possible to get much out of it.

Mr. HARGIS. It is not exact by any means. It is merely an approximation. But the fact that you want preliminary information indicates to me that you want something on which to predicate the future trend of values.

The CHAIRMAN. Yes.

Mr. HARGIS. That is what we are attempting to get, and that is what the speculator is attempting to do. He attempts to forecast the future by an investment or by selling for future delivery. Either man is a speculator. Either man is equally valuable.

I have heard the term "gambler" used here and in the press—I do not refer to the committee—but I differentiate between "gambler" and "speculator" in a way that to me is absolutely clear. If you and I are out together some evening, or if we meet in the morning, and you state to me that you have a thousand dollars and you bet a thousand dollars that wheat goes up that day, then you are a gambler. If you say to me, "Hargis, I have a thousand dollars. I would like to invest it in wheat. Buy me 20,000 May wheat," you are then speculating, because you have accepted a contractual obligation to buy a particular grade of wheat for a particular delivery at a specified price, and you must meet that obligation when it comes due unless in the meantime, for some unforeseen reason, or for some reason which is sufficient to you, you close the contract by selling that commodity out. We have a solemn obligation there. In the first instance, where you bet that the market would go up, you were simply hazzarding the course of it without any real interest in the market. That is the way I differentiate between speculating and gambling. I can not believe that it is wrong in the economics of this country to permit men to speculate even in foodstuffs. I think it is just as proper that there should be forecasting in the value of wheat, corn, oats, etc., as there should be forecasting in real estate or apartment buildings or anything else that enters into American economy. I can not see but that organized speculation is more advantageous than unorganized speculation. I think it serves a very much greater purpose, because you have the registration all

the while. I think the grain exchanges themselves are seriously to blame for one thing.

The fact that we are a going institution and performing service from day to day is not a matter of any particular consequence to the press or the people, and hence we never find any space in the papers. It is not of any news value—not any more so than the fact that the Riggs National Bank is here in Washington and is a sound bank. We have failed, while this easy-going process was on, to educate the people as to the services that we perform. We have taken it for granted that the mere performance of the service was sufficient in itself. But when the public comes along it fails to understand that, and the criticisms are directed at us. When the criticisms are directed at us, that becomes a news item. It goes to the press and to the man who produces and consumes, and they say there is the organization that has done the damage. It is merely the expression of an unusual event that brings the boards of trade and any other institution or any individual into the public press. Therefore, we get much notoriety when things are wrong, and it is not of any news value to go to the editor of a paper and explain to him that the board of trade is doing a good thing and is operating in an orderly way. He has no place for that, and very properly so.

Senator Capper questioned two witnesses here the other day about the very sharp decline in grain prices the day following the passage of this House Resolution 5676, the Tincher bill. I believe he stated that the market broke about 11 or 12 cents in Chicago, and unquestionably it had about the same decline in Kansas City. I happen to know something about that. He seemed to feel that was a purely speculative depression that was not based on any foundation. At the close of each market day there is bidding going out to the country by wire, card, etc., and country brokers receive telegrams with overnight bids. About 2.30 or 3 o'clock in the afternoon—I have forgotten the exact time—the news went to the country that the Tincher bill had passed the House. It went to all the points in Kansas. What was the result? Within 30 minutes after that news was out there the bidders in our market were snowed under by an avalanche of wheat which the Kansas grain dealers sold. Before the terminal grain dealers could withdraw their bids that afternoon Kansas had dumped between one and two million bushels of cash wheat for deferred shipment on the Kansas City exporters and elevator operators. They withdrew their bids. One firm sold some wheat for export and put out a bid later in the afternoon and had to pull in its horns on account of heavy purchases. It was out of the market.

Now, if Kansas City alone got 2,000,000 bushels of wheat that afternoon, when this news reached the country, there is no wonder there was a depression the next day. I know specifically with respect to our own territory that wheat there was sold because of a feeling that this legislation might close up the exchanges. So the next morning when the futures market opened there was an enormous quantity of wheat to be hedged. These men who had gotten wheat were as badly scared as the men who has sold it to them. But they had to take their medicine. What they did do was to go into the pit and hedge that wheat at a serious loss to themselves. The speculator, the investor in the market, who had futures bought, seeing this selling going on in such quantity, wanted to get rid of his com-

mitment. That shows how sensitive the grain market is and how easily it is influenced. It did not stop or start at the terminal market; it started out in the country, and the countryman is the fellow who got rid of his wheat on the basis of the close of the strong market, and the man at the terminal point is the man who had to hedge it on the break next day.

Senator REED. What was the effect of this last market report as to wheat shortage?

Mr. HARGIS. You mean the other day?

Senator REED. Yes.

Mr. HARGIS. The Government report was out reducing the prospective yield of winter wheat twenty-nine to thirty million bushels, and the result was that July wheat shot up 10 cents a bushel. These figures of the Department of Agriculture cause very wide swings in the market. I do not say that they are not very valuable statistics. but they are most variable.

I had complied for me the other day as I came through Chicago figures on Government wheat estimates for last year by the Department of Agriculture. In May, 1920, they put out an estimate on winter wheat crop of 485,000,000 bushels; in June, 504,000,000; in July, 518,000,000; in August, 533,000,000; in September, 533,000,000; in October, 533,000,000, and in December—months after the harvest was over—they increased that 45,000,000 bushels, making it 578,000,000 bushels. In the State of Kansas alone in the December report they increased the winter wheat yield 13,000,000 bushels, which is quite a consequential amount for one State.

In the spring yield they started in June with an estimate of 277,000,000; July, 291,000,000; August, 261,000,000; September, 237,000,000; October, 218,000,000, and December, 209,000,000.

There was evidently an impairment all the while there. As a matter of fact, the initial estimate of June covering winter and spring wheat was 781,000,000 bushels. The final estimate of December covering winter and spring wheat was 787,000,000 bushels, a difference of only 6,000,000 bushels. But in these reports there is a difierence between the October report and the June report of 58,000,000 bushels. That is for the total crop. Between the July and August report there is a difference of 24,000,000 bushels.

These are interesting merely to show that any sort of figures that are compiled, even by a Government agency, are at best only estimates. We know that these figures are gotten by correspondence with postmasters and others, and they serve a fairly useful purpose but they serve to cause these violent fluctuations also, to which the public apparently objects.

Senator REED. How did the market respond to those various conflicting reports?

Mr. HARGIS. Without having any chart before me, Senator Reed, it is very apparent that as the yield would show an increase the market would decline, and as it would show a decrease the market would rise.

Senator REED. It would be very interesting if you could furnish us the exact rise or decline in the market following those reports. I venture to suggest that they made a more violent fluctuation in that year than all the corners in wheat in the last 10 years.

Mr. HARGIS. With your permission, Mr. Chairman, I am going to ask Mr. Gates of Chicago to handle that matter when he appears before you, because he will have an opportunity to prepare the data. He is a very excellent man on that, and I have not that information before me now.

A point was brought up here the other day by Mr. Moore, of Duluth, I believe, he having stated that in his exchange memberships could be rented and that men of practically no means could operate. That is not the fact in our market, and I want to make that point clear. Memberships are not rented on the Kansas City Board of Trade. They must be purchased outright. There is a transfer fee of $500. It is an entirely proper thing that there should be a transfer fee because we have actual physical property.

Before a membership is transferred the applicant appears before the membership committee and is examined as to his business record and his responsibility; and if he is found desirable in those matters, having a clean record back of him, even if he is of quite moderate means he can secure admission. In securing that admission he must take on himself an obligation to live according to the rules of the exchange. Those rules are very rigid. They must be rigid.

The CHAIRMAN. I suppose in fixing the amount that one must pay you take into consideration—and it is the object to be attained—the value of the property?

Mr. HARGIS. You mean on the transfer of the membership?

The CHAIRMAN. Yes.

Mr. HARGIS. Yes. That varies, Our memberships were as high as $15,000. We have no limit in number. The treasury memberships are issued at $15,000.

The CHAIRMAN. You mean that in order to be admitted to membership you have to pay $15,000.

Mr. HARGIS. Not quite that, Mr. Chairman. There was an increasing demand for memberships, and there was none on the market other than in the possession of those who then held them. Under our by-laws new memberships may be issued at any time at $15,000. That price has been stable for some time. Within the past two years 16 men bought treasury memberships at $15,000. Now memberships are down to about $8,000.

The CHAIRMAN. I wish you would explain how that varies, and why it varies.

Mr. HARGIS. It varies according to crop conditions. It varies most considerably also under legislative conditions. There are men who feel that if their business is likely to be impaired they had better get out; so they offer their memberships for sale just like they offer wheat for sale, and when such a membership is cheap enough to be interesting a man will buy it.

The CHAIRMAN. He can not transfer it without consent?

Mr. HARGIS. No.

The CHAIRMAN. He has to go through the same performance, then, as though he were applying for membership?

Mr. HARGIS. Exactly so.

The CHAIRMAN. The thing I do not quite understand is this: Why you should charge $15,000 for membership for a while and then reduce the charge to $500.

Mr. HARGIS. No; $500 is the transfer fee that is exacted by the board of trade if I sell you my membership; $15,000 is the treasury price of a membership, and it has been the stable price for some time.

The CHAIRMAN. And is still the price?

Mr. HARGIS. Yes. When the demand for membership became so acute as to advance the bid to $15,000, the board of trade did not attempt to limit its membership by advancing in treasury price; it allowed it to remain stable and allowed any man, meeting other requirements, who wanted to pay the price to come in.

Senator KENDRICK. Do you happen to know what the value of a seat on the New York Stock Exchange at this time?

Mr. HARGIS. I do not know what it is at this time. I know that they have been up to enormous prices.

The CHAIRMAN. Let me ask you another question following out my line of previous questioning. Suppose a member of the board of trade dies. Is his membership a part of his estate?

Mr. HARGIS. It is a part of his estate.

The CHAIRMAN. Is it sold, then, like any other property that he may have owned?

Mr. HARGIS. No. In the case of the death of a member the membership is transferred without charge for the beneficiary of the estate. In other words, while living men pay a transfer fee of $500, if a man dies his estate is able to transfer that membership without any fee.

The CHAIRMAN. Have you had instances where, in the settlement of an estate upon the death of a member, the membership was sold like any other property that might belong to the estate?

Mr. HARGIS. No. In all cases the executor simply notifies the secretary that this membership is for sale, and as soon as there is a bid price, if it is satisfactory to the estate, it is disposed of at that price. You understand that the board of trade itself does not handle the purchase and sale of these memberships as agent. That is just done between men as it might be done between you and me.

Senator KENDRICK. Subject to the approval of the purchaser as a member?

Mr. HARGIS. That is correct.

Senator REED. If you did not do that you might get every kind of a scallawag in there?

Mr. HARGIS. Most certainly. We reserve the right to scrutinize the character of every man entering, but there is no transfer fee in the case of death.

The CHAIRMAN. I understand that clearly, but the question arises in my mind as to what is the value to the man's estate of his membership. What would an executor do in reporting the estate? Would he put a value on that, and, if so, how would he reach a value?

Mr. HARGIS. Our memberships are not certificate memberships. This is a price that is paid for the privilege of using the trading facilities of the organized exchange. Therefore, it has no intrinsic transferable value, but all the while has an actual commercial value.

The CHAIRMAN. Of course, I can see that it could not be sold by the executor like any other property, because the purchaser might not be able to get in the exchange after he bought it.

Mr. HARGIS. Certainly not. The purchaser would have to be a man who met the requirements.

The CHAIRMAN. You have physical property that belongs to the exchange?

Mr. HARGIS. Yes, sir.

The CHAIRMAN. You own your building?

Mr. HARGIS. No; we do not own our building. This physical property is in a trusteeship. It is held in trust for the members of the exchange.

The CHAIRMAN. I suppose that has something to do with fixing the value of the membership.

Mr. HARGIS. Unquestionably the book value of the membership represents something.

The CHAIRMAN. The value of the membership consists of two items. One would be the book value, which would be based on the physical property owned by the organization, and the other would be the privilege given to members trading on the exchange?

Mr. HARGIS. Exactly.

The CHAIRMAN. The physical value could be easily ascertained, but the other value is a value that is placed arbitrarily by the organization itself. You could put any value you pleased on it?

Mr. HARGIS. On the privilege?

The CHAIRMAN. Yes.

Mr. HARGIS. The organization itself makes no statement as to value, except that if anybody comes in there and wants to buy a treasury membership he may do it at the price mentioned in the constitution and rules.

The CHAIRMAN. If you wanted to change that membership value from $15,000 you could put it at $10,000 or $25,000?

Mr. HARGIS. By a two-thirds vote of the membership.

The CHAIRMAN. You would have to comply with whatever rules you have, of course.

Mr. HARGIS. That is right. I would like to go a little further into the subject of these memberships. The members of our exchange also have an insurance fund. There is a $5,000 life insurance on every man who is a member of the Kansas City Board of Trade, which the board pays to his beneficiary in case of death.

The CHAIRMAN. Is that a common thing?

Mr. HARGIS. I can not state as to other exchanges. In Kansas City a considerable amount is in the insurance fund.

The CHAIRMAN. That applies to all members?

Mr. HARGIS. Yes, sir; regardless of his age.

The CHAIRMAN. Do you have to have a physical examination in order to be admitted to membership?

Mr. HARGIS. No, sir; you have to have a moral and financial examination only.

The CHAIRMAN. It would be a good place to go if you were in a bad condition and expected to die.

Senator REED. Well, you could not well afford to pay $15,000 in order to get $5,000 worth of life insurance and wait to die for you widow to collect.

Mr. HARGIS. Now, regarding the bill itself—but before I do that, Mr. Chairman, there is a thing that I want to relate here, and that is the possibilities under this cooperative clause of the distribution of profit. You were discussing that subject this morning. We will assume that the average American farmer, wheat grower, produces

1,000 bushels, which, of course, is much too high, as he does not produce that much. We will assume that under this plan, as they state, half the commission of 1 per cent is profit; I mean the organizers of the new movement in the grain market. If that be the case, the farmer growing 1,000 bushels of wheat would save $5 in one year, or if he signed this contract $25 in commissions in five years. It must be apparent to you that an American farmer is not signing a 5-year contract with one organization to merchandise his grain, especially where he pays an admission fee of $10. There is something else underneath this. I want to go into this subject because there are others going into it with you. Mr. Hirth published a statement not long ago and sent me a copy of it.

Senator REED. Who is Mr. Hirth?

Mr. HARGIS. William Hirth, of Columbia, Mo., the publisher of the Missouri Farmer. He constituted one of the committee of 17. This article was headed, "Can the American farmer fix the price of his wheat?" He went on to prove that he could on this basis: He assumes in the article that the American wheat production for one year will be 850,000,000 bushels. He assumes that the carry over at the beginning of that period and the carry over at the end of that period will remain stable; that the domestic requirements for seeding and for feeding the American people will be 650,000,000, leaving 200,000,000 bushels for export. He assumes that the American producer is entitled to a price that is satisfactory to him for the goods sold in this country.

Mr. Hirth asked me what I thought the American producer is entitled to for his crops, and I told him that the ideal condition would be for the producer to secure the cost of his crop, plus a fair return for his effort, plus a fair interest on the investment, plus some profit for the risk he had taken in seeding that crop; that would be ideal, but can never be, was my statement, so long as we are a surplus Nation and have to meet the other countries of the world in marketing these supplies. He responded by saying that it could be met.

Taking those figures I have given you, here is the basis on which he works it out: They will take from the farmers, under his plan, 650,000,000 bushels at $1.50 per bushel. They will advance the farmer $1 a bushel against it and withhold 50 cents per bushel for eventualities. That will leave them 200,000,000 bushels for export. The world's market is such that the surplus can be sold at only $1 per bushel. They will merchandise that surplus at $1 which will show a loss on that sale as against the sale to the American consumer. Charging America, then, $1.50 on the 650,000,000 bushels, they will receive $975,000,000 for the wheat marketed in this country. They will have lost $100,000,000 on the 200,000,000 bushels sold to the world at the world's level of $1 a bushel. Deducting that loss of $100,000,000 on the overseas sales, you will then have a reflection to the American producer of 17 cents less than the American sales price, but 33 cents more than the world's price level.

The idea of Mr. Hirth at least is this: The only way they can get cohesive operation among the American producers is to offer an inducement which will bind them into a solid organization. The binder will come through the refund of commission, which, I have shown you, in five years could not be more than $25 gross or $15 net on a five-year production.

Senator REED. That is, you mean in commissions?

Mr. HARGIS. Yes, in commissions. That is this cooperative patronage refund basis. But to get them in that organization they offer them this patronage disbursement of dividend, the ultimate object being through that organization to bind every American producer in the United States into one organization which will make it the great dominating sales agency in the United States.

I recognize without any doubt the fact that the American producer is entitled to a very great deal of sympathetic consideration, but I do believe that when the laws of this country were made exempting the producer and certain other men in collective bargaining there was no thought in the mind of Congress at that time that the exemption would ever be used for the purpose of organizing those men all in one concrete body to dictate the price to the American consumer, of which there are 80,000,000 people, whereas in the production there are about 30,000,000.

I submit to you this also, that to make this plain operative it would take all the producers of the country. So I think it is economically unsound and will break of its own weight. The reason I touch on that is this, that in H. R. 5676 there is a cooperative clause which says they shall be admitted under certain conditions. There have been many examinations, but there has never been any criticism from any authority that I have ever found connected with the United States Government, or anywhere else, that the commission rate on grain is too high. Yet without ever having found it was too high, we are offered a bill which tells us that certain men shall come in and have their grain handled in that going exchange at a less rate than is charged the man who does not belong to the cooperative movement.

It simply means this, that if this movement should be successful, your independent country shipper will be eliminated, because he could not compete with the man who is having business handled at half price. That half price would be his margin of profit. But I do think that these cooperative companies should be admitted as anyone else, without discrimination. We have one in our organization at the present time. It has been a member for five or six years. It is the Equity Union Grain Co. But they have to come in under our rules. They have a capital investment and their earnings are disbursed on the dividend basis.

If you find there is sufficient wrong in the exchange to make it necessary to state that the commission rate is too high, it should be investigated and reduced. If it is not too high, those men who built those organizations, who have used the energy of their lifetime, working for a nominal fee, should not be hampered, should not be destroyed, as they will be destroyed. I want you to give that, if you will, sirs, your very serious consideration.

The CHAIRMAN. I would like to ask you a question about that one cooperative institution that you spoke of as being a member of your exchange. They have no patronage dividends?

Mr. HARGIS. No; they disburse on a stock-ownership basis.

The CHAIRMAN. I can not see, myself, what is the difference to your exchange having a membership of that kind and having a membership of an organization that disbursed on the patronage basis. What is the difference to your organization?

Mr. HARGIS. There is a very distinct difference. To begin with, our uniform commission rule gives us police rights. This proposal of a cooperative entrance under this bill does not apply to the farmers now, but we have found that men who attempted to do business at less than the prescribed rate of commission were flying in the face of economic losses; that they bump into those losses, and when they bump into them they use devious methods to extricate themselves. Those are men who have been on the boards of trade who have indulged in the practice of handling business at less than the regular commission. In other words, the commission is fixed so low that unless a man charges that amount he can not make a living out of it; but some men have thought that they might handle volume at reduced rates. It has always worked wrong.

The CHAIRMAN. Is it not true that the cooperative organization on a patronage basis charges the same commission that the organization does that is on a purely dividend basis?

Mr. HARGIS. Yes; I say I would not put them in that class, because they make it known before they come in that they want to do business on a patronage-disbursement basis. I make this difference: If you haul a thousand bushels of wheat into your cooperative concern, sell it there, having no capital invested in that concern, and that wheat goes into Kansas City and is sold on the market, and at the end of the year the returns are made, and it is discovered that it costs one-eighth or one-quarter of a cent less than the regular commission to take care of the actual handling of that, you are not entitled to that eighth or quarter of a cent, because you had no commercial risk there whatever. You had no capital investment; you had no membership on the exchange; you had not built up an organization there. Now, I feel as though the man who is a member of an exchange and who has helped build up that organization and has been performing a service of benefit to the producer of the country should not be legislated against simply for an eighth or a quarter of a cent, and a quarter of a cent will deflect the business.

The CHAIRMAN. I agree with what you say; but still I can not understand why it would hurt the exchange if an organization were admitted to membership and disbursed its profits on the patronage basis instead of on the premium basis.

Mr. HARGIS. We will suppose that a cooperative company is organized and you take $100 of stock in it. You may deliver 5,000 bushels of wheat. Your 5,000 bushels of wheat will go to the market, and we will assume that the refund at the end of the year would be $12.50. That would be the patronage basis. Under your $100 stock basis you might get back only $3.50 on your capital invested. You have to differentiate between the invested capital on the one hand and the patronage dividend on the other. The man with the most wheat gets the biggest refund under the patronage basis, while the man who had $1,000 stock and only 500 bushels of wheat will get only a little of it. That is economically unsound.

The CHAIRMAN. I see that; but I can not understand why the exchange should be cncerned about it.

Mr. HARGIS. The exchange is concerned with the soundness of the business method of any firm which comes there and seeks its protection and its benefit.

Senator REED. Well, is there anything in this, Mr. Hargis: We will take this company that you call the Equity Union Grain Co. It has a capital?

Mr. HARGIS. It has a capital; yes.

Senator REED. Does it have a sufficient capital so that if it has a misadventure on the market that capital would probably take care of the loss?

Mr. HARGIS. That is quite true; yes, sir.

Senator REED. If you have merely a cooperative institution without any capital and there should be a bad operation and a loss, what would there be to take care of that?

Mr. HARGIS. There would be nothing except the individual responsibility of a man who was on the floor?

The CHAIRMAN. Let us see. As I understand it, there would be something to take care of that. I may be wrong about it.

Senator REED. Will you let me just clear that point by another question, if I can, Mr. Chairman?

The CHAIRMAN. All right.

Senator REED. In other words, this plan that is now submitted contemplates that the business shall always be profitable?

Mr. HARGIS. Exactly that.

Senator REED. And that they will divide profits. But are there any of them now that have capital or bonds or security that will take care of any losses?

Mr. HARGIS. None of them has applied to us for membership, so I do not know.

Senator REED. You do not know anything of that kind?

Mr. HARGIS. No.

Senator REED. Are there any losses possible?

Mr. HARGIS. They are not only possible but they are very actual.

The CHAIRMAN. Now we have that matter cleared up. The result of that is this, as I understand it: That you are dealing altogether on a profit and have no provisions to meet losses.

Mr. HARGIS. That is true.

The CHAIRMAN. That would be the protective organization. My understanding of these organizations is, however, that they take care of the possibility of loss by not paying full value on the wheat originally when they get it. Suppose, for the sake of illustration only, the organization did not pay anything to the farmer who brought in his wheat; that they just took it and handled it, and whatever the result was he was going to get his share. If they sold the wheat for anything there would be something to divide. As I understand it, the risk they run—and I suppose there is a risk there—is one where they pay the producer too much of its value. If they could pay him very near the entire value of his wheat when he brought it in, and there could be a loss, then I could see how there might be trouble, but if the margin between the value of the wheat when they buy it and what they pay him for it is sufficient, that margin would take up the loss, would it not, if there were a loss?

Mr. HARGIS. I concede that as you state it, but I will answer it by asking a question. Does it not seem to you that it would be a very necessary thing for the exchanges to use the utmost scrutiny as to the character of man admitted to membership and taking the benefit and protection of its rules and regulations if he were to be

the custodian of the property of these farmers without advancing them any money?

The CHAIRMAN. Yes.

Mr. HARGIS. The grain man advances money right up to the notch on it. I would want to scrutinize most closely the man who had the custody of those people's funds.

Senator REED. There was a break in the wheat market a few months ago of 60 cents, was there not, in how many days' time?

Mr. HARGIS. That was two weeks. That was when futures were first opened.

Senator REED. There was an advance in the market the other day, on mere Government report, of 9 cents a bushel. There might have been a depression in the market just as readily as an advance if the Government report had shown an enormous crop.

Mr. HARGIS. Quite right.

Senator REED. And the prices have gone down, and when the Government reported a poor crop or a diminished production they have gone up just as rapidly as down when there was a report of a bumper crop?

Mr. HARGIS. Yes; that is quite clearly typified, Senator, in the results of the action of the grain market this year. The early estimates of the United States corn production, the last crop harvested, was about two and three-quarters billion bushels. When the final estimates were out it was three and a quarter billion bushels. That is a very considerable difference in the production of the United States. That over-production of corn, with the scarcity of stock to feed it to, has had a very depressing influence on prices, and it is really a marvel to me that the market has sustained itself as it has.

Senator REED. That is an interesting theme, but I do not want to follow that now. There are, then, from causes that are not in any way chargeable to manipulation upon the board these sudden drops in prices which occur from time to time?

Mr. HARGIS. Oh, yes; just as they advance.

Senator REED. Now, if an organization held together merely by a common agreement for marketing were to have a large quantity of wheat contracted or in transit, and were to reach that sort of a market and have to sell upon that market, there might be a very heavy loss. That is true, is it not?

Mr. HARGIS. Absolutely.

Senator REED. And it is these heavy losses that occur, unexpected losses, from the price having gone up or the price having gone down, that sometimes breaks members of boards of trade.

Mr. HARGIS. Quite right.

Senator REED. Is not, then, this the real crux of this matter: That it is proposed to compel you to receive a farmers' organization without any provision that it shall have any kind of financial stability or responsibility, such as you exact from your other members?

Mr. HARGIS. That is quite true.

Senator REED. And to put into your exchange a member who if the market goes up and the profits are good can divide the profits and distribute them among the irresponsible membership, but if the market should go the wrong way and there should be losses instead of profit, there is no one to respond to those losses, unless, indeed,

you can follow the matter to all those numerous members possibly scattered over a dozen different States.

Mr. HARGIS. That seems to be sound.

Senator REED. I do not know that it is sound. I am asking whether that is not the situation?

The CHAIRMAN. I do not believe that is the situation, Mr. Hargis, if I understand it. These farmers' organizations, as I understand them, and I have never gone into the detail in any specific case and may be misinformed, but from my information, as I stated before, they hold off what they think is a sufficient margin in all purchases of grain. They divide up the profits at the end of the year. I do not know just when they fix the time or whether it is universally the same. They might lose and might strike a market where they might lose a large amount of money. Still at the end of the year when they come to divide, they might have a large profit, notwithstanding many losses.

Senator REED. A profit from what, Senator? From the commissions?

The CHAIRMAN. No.

Senator REED. Those are the only profits they make.

The CHAIRMAN. As I understand it, their profits do not come from commissions alone. Suppose they bought a million bushels of wheat on the market when the price was $1.20 and they advanced $1 a bushel on it. Now, wheat can go down 20 cents a bushel before they can lose.

Senator REED. Pardon me, Senator, I want to get at that fact and I know you do, and maybe it is not out of place to mention the matter here. I do not understand that they propose to buy wheat at all. They propose to take a farmer's wheat and market it for him and to charge him a commission. If they did nothing but that there could be no profit and no losses to them, except the little profit of a commission, after the expense is taken out, or a loss possibly in transit which they might never be able to recover for, and even that would fall upon the owner of the property. So that they would be doing a safe business unless they advance money to the raiser of the wheat. If they do advance money to the raiser of the wheat of $1, we will say, a bushel and the market advances from $1.20 to $1.30, they do not get that profit of 10 cents. The owner of the wheat gets $1.30 and they get their commission. If, on the other hand, they are going into the business, this organization, of buying wheat from the farmer at the home market, getting the benefit of the advances, they must then take the risk of the losses. Or if they advance him money they take the risk of the margin between the price received and the amount advanced being completely absorbed and wiped out and a loss resulting.

The CHAIRMAN. Certainly they do.

Senator REED. Now, what is the method that they do pursue?

The CHAIRMAN. I was trying to explain that as I understand it. They do not advance to the original producer the whole value of the product.

Senator REED. Do they buy?

The CHAIRMAN. Yes. I suppose technically if we were in a court here is what would happen: We will say we are all farmers. We organize a corporation. We buy an elevator and I am put in charge

to run it. Senator Kendrick comes in with a load of wheat. Wheat is worth $1.25 a bushel; that is, the grade that he brings in. I, representing the corporation of which he is a part, pay him $1 for it. I presume technically if you wanted to be technical and legally right, the title to that wheat when I get it away from him is in the corporation of which he is one of the stockholders. We own the wheat, but our articles of incorporation are such that when we dispose of it, no matter where we sell it, he has lost control of it, and when the business is settled up for the year, we find that we have made a profit and we give him his portion of the profit, dependent on the amount of wheat that he sold to us. I may be wrong about that, but that is my understanding of it. We are doing business for a whole year and the price goes up and down. When this corporation gets this wheat in we sell it in different places at different times during the year. We lose on some of it probably. The only risk we run, as far as the grain exchange is concerned, is that we have advanced too much originally and the price will always be down and never up.

If you take an entire year and could deal in wheat and always get it at 20 cents or 10 cents or whatever the difference might be below the market at the time you bought it, keeping that up during the entire year, it would be a remarkable coincidence if you lost money in the operation, because we would have a portion of the value of the wheat that we do not pay for and the fellow would be entitled to get nothing unless we made something.

Senator REED. I am not trying to take this up in a controversial way at all, but let us see if you are right about that. Here is a corporation organized with a small capital. I do not understand that any of these institutions have large capital. I am going to grant everything you have said now in your illustration, which we all know is supposititious—you put it that way yourself—but suppose that the wheat is $2.16 a bushel and this corporation has contracted for a million bushels of wheat. It takes two or three or four weeks to get it to the markets, I suppose. In the meantime, the market has broken 40 or 50 cents. They hold back a margin of, say 20 cent a bushel. They have had a loss happening to them within two or three or four weeks which may completely wipe out every dollar of capital they have got. They have already paid these men $2.25 for it.

The CHAIRMAN. If you would apply the same reasoning to the ordinary grain man now, and confine it to one operation, you would break every grain man in the United States.

Senator REED. I am not confining it to one operation, but to one great slump in the market. Now, this is what the grain man does to get away from that. In the first place——

The CHAIRMAN. The grain man hedges.

Senator REED. Exactly.

The CHAIRMAN. These fellows can hedge just the same as the grain man, and they do.

Senator REED. If they are going to conduct it on that basis, does it not bring you back exactly to where Mr. Hargis stated the case in the first place, that taken by and large their only profits would be the commission? And if they deal with the same skill and foresight as the grain men who have been there on the board of trade for many years and they expect to save half of that and that amounts

to $5 to the man who raises 1,000 bushels of wheat—if that is all there is in this plan, it is not worth talking about.

The CHAIRMAN. I do not think that is all there is in the plan. I am only giving my opinion of it and I do not claim to know. My idea is that there is simply this difference: These fellows organize and agree to divide their profit at the end of the season. First, they will limit the amount that they will pay on the capital stock, say 6 per cent, and they pay that. On whatever stock you have you get that 6 per cent if sufficient profits are made to cover that. Any other profits will be divided among the members of the corporation in proportion to the amount of business they did in the corporation. I am not condemning it or defending it. I know that the farmer union organizations claim it to have been very successful, and I think from the way they are doing business in my State they are very successfully organized under that method. I do not see anything wrong in such an organization, and I do not see why they should be penalized for having it if they want it. They claim that they do that in order to prevent anybody from buying up the stock and controlling the operation. They will not let a man have more than one vote, no matter how much stock he may own. There may be some variations and it may differ somewhat, but my understanding is that that is the basis of the organization.

Mr. HARGIS. Why would not this be a sound plan, Mr. Chairman? To have a central company at each of these terminal markets, with a capital stock perfectly adequate to handle all shipments they have, with the stock in it owned by these various cooperative companies at the several country points; have an actual cash investment by each one of those; let as many farmers as desired be members of each; let as many country points be established as may be desirable; let this central corporation charge the same commission that we charge, handling its business as we handle it; once a year disburse its earnings as any other firm does; and then when these funds reach these several country points let them make disbursements to their members on a patronage basis if they see fit.

The CHAIRMAN. I do not see any objection to that.

Mr. HARGIS. The committee of seventeen rejects that. That is a plan which would certainly meet the requirements of the board of trade. I believe that if the farmers can get up a marketing machinery that is better than ours they are entitled to it, but let them get it up in good clean competition with us.

The CHAIRMAN. As long as they do nothing dishonorable, they ought to be allowed to get up a corporation just as they want it. If it is unsound as an economic proposition it will fail.

Senator REED. Senator Norris, of course these are mere colloquies, but I guess they are quite as illuminating as opinions of witnesses. Do you understand that these farmer cooperative institutions are not just what their name indicates, that they are cooperative bodies merely held together in a sort of organization, having some officers elected, but without the corporate form and without capital stock?

The CHAIRMAN. There may be some such. The ones that I am speaking of are not that way. I happen to know from just occasionally being in the country and having met farmers who were members of the organizations, that in my State the farmers unions

organized along the lines I have outlined. They have a very large membership and they have an elevator in every town. They were opposed very bitterly several years ago. When they first commenced to operate on that plan the railroads would not let them have elevators and would not give them space; but they have survived their difficulties and are doing an immense business. I have often talked with members of that organization and asked about their capital stock, and I have been told what it was. They have always had a capital stock and they have always had a limit on the dividends that could be declared on that capital stock. I think it was almost universally 6 per cent. They also had a provision that no matter how much stock any individual owned he could not have but one vote, and they had patronage dividend arrangement.

A controversy has arisen—and it has arisen here, because farmers' organizations have called on me in reference to several other bills where the cooperative farmers are involved—in which one side demands that these organizations so organized shall be precluded from doing any business with anybody except their own members. I have talked with members about that proposition, and I can clearly see an objection to it. I would not favor a law that would prohibit them from doing business with an outsider, although they are perfectly willing to have that kind of a law. There may be some man who would not want to belong, and I do not want to force anybody in an organization that he does not want to go into.

Senator REED. I do not want to be understood by any question I have asked or any comment I have made of wanting to throw the slightest obstacle in the way of the farmers organizing in any manner they see fit, and if there is good in these organizations I want the farmer to have the benefit of it. We are now treating the question of controlling boards of trade, which are not farmers' organizations, and one of the provisions is, in substance and effect, that farmers' organizations must be admitted. The language is, "where the seller is at the time of the making of such contract the owner of the actual physical property covered thereby, or is the grower thereof, or in case either party to the contract is the owner or renter of land on which the same is to be grown, or is in an association of such owners, or growers of grain, or of such owners or renters of land."

Now, as I understand this bill, in order to escape taxes, these prohibitive taxes that are put on, the party must be one of those designated. In the clause I read the only definition of farmers' organizations is, "Or is in an association of such owners, or growers of grain, or of such owners or renters of land."

As I understand the further provisions of the bill, it is proposed that these associations of owners or renters of land or growers of grain must be admitted. Otherwise a board of trade would be taxed out of existence. And there is in this bill, as far as I have been able to determine, not a single restriction upon the character of this organization of the growers of grain or owners or renters of land that will protect against the things that we all have admitted in this colloquy are liable to occur. If this bill is to be passed you are to force these institutions out of business by a tax, unless they receive these organizations; then, is it not incumbent upon the committee

to define the character of the organization, its methods of business, its capital, etc., to the end that it may be a responsible thing?

The CHAIRMAN. Senator Reed, I think the language is rather indefinite. I have called several witnesses' attention to the very language that you have read. But you are drawing a conclusion that, in my judgment, is not justified. If you will read on from where you stopped reading, you will find this:

Provided, That any such organization or its representatives applying for admission to membership——

Senator REED. Where is that?

The CHAIRMAN. That is on page 5. I am continuing where you left off.

Senator REED. No; I was reading from page 3.

The CHAIRMAN. I am reading from part of subdivision (e) of section 5. It is the one that is dealing with these organizations of which you are speaking. The language is:

Provided, That any such organization or its representatives applying for admission to membership on a board of trade be able to and shall comply with and conform to all rules and regulations of such board if the same have the approval of the Secretary of Agriculture.

Senator REED. Now, let us take that; that is, provided they shall comply with the rules and regulations of the exchange which has been shown here to have relation merely to the good character of the dealer and the reasonable capital. But that is all put in the hands of the Secretary of Agriculture instead of being put in the hands of a law-making body.

The CHAIRMAN. Yes; that is true. In other words, these rules, in order to be effective, must be approved by the Secretary of Agriculture.

Senator REED. Exactly, and the Secretary of Agriculture then has put in his hands the power to admit anybody that he sees fit, provided that anybody is an organization. I am taking a good deal of the time of this committee, but there are only a few of us here. I will put this question to you: Is not that the power of life and death over the business of these men vested in the hands of one man who may be honest, who may be dishonest, who may be wise and who may be foolish, who may be prejudiced and who may be unprejudiced? And can we afford to put any such power as that in the hands of one man, or two, or three men? Is it not necessary to put in the substantive law itself the provisions with which these organizations shall comply?

The CHAIRMAN. I think that would be much better, if we can put it in the law itself. I agree with you. I would like to do it. It is going to be a difficult thing for us to define by law what those rules shall be.

Senator REED. If a man can sit down and write a rule that is a just rule, then the only difference between his having written that just rule and the enactment of a law is to say that the Secretary of Agriculture orders and directs or to say "Be it enacted by the Congress of the United States."

What I am protesting against in this bill and every similar measure is the putting of the American citizen under the rule of some one man or some board, instead of putting him where he ought to be,

under the rule of law which he can read and interpret and which the courts can protect him under or punish him under as the deserves.

The CHAIRMAN. Of course, without any law these people are subject to a rule made by the corn exchanges and the boards of trade. Somebody must make the rule.

Senator REED. A man has a right to make a rule for his own government. He has the power to change that rule; if it operates badly he can change it, as he is the individual that is affected. But it is a very different thing for you and Congressman Ellis and myself to sit down and agree in a copartnership to a set of rules that we would live under and which we have the power to change at will and we three agreeing that we will live under such rules as Mr. Hargis, who is not a member of the copartnership, may make for us to live under.

The CHAIRMAN. These grain exchanges and boards of trade are semipublic institutions. They are public markets.

Mr. HARGIS. I beg to differ with you, Mr. Chairman. They are public facilities, but not public markets.

Senator REED. Granting that they are public, granting for the sake of the argument that Congress has the right to step in there and do whatever it pleases; put it that broadly. Yet in legislating for the country and in legislating justly for this business, are we going to put them under a rule of law, which, as I have said, they can construe and courts can construe? Are we going to put them under the mandate of an individual or the mandate of a board? That is the point that I am objecting to in reference to this bill and similar measures.

The Secretary of Agriculture will not make these rules at all. They will be made for him and signed by him. The conditions in different exchanges are different. These rules will be prepared by a lot of gentlemen, most of whom are out of a job at home, who came down to Washington to get employment, and probably 95 per cent of them are utterly ignorant not only of the grain business but of all large business transactions.

But that is not the worst feature of this that I see. You are putting in the hands of the Secretary of Agriculture the power to suspend any one of these exchanges. That power will be execised in about this wise: One of his inspectors will walk into an exchange. He will find something that he sees fit to criticize—and they are always hunting for something to criticize, because that is the way they make their record—and he will say to this exchange, "If you do not do what I tell you I am going to recommend your suspension." And he has this power to suspend. When that exchange is suspended, what is its relief? A suspension of one day probably means bankruptcy to many of the members. A suspension for a week or for 30 days means that the exchange is destroyed, with the accumulated values of that great business. When an exchange goes into court, if it has any chance to get into court under this bill, it has imposed upon itself a burden under the law of showing that this man acted outside the purview of his authority, that his act was purely arbitrary and amounted to a fraudulent abuse of his power. In the meantime this business that has grown up for 30 or 40 or 50 years is destroyed. What is the difference between that and a rule of law? In the first place, you do not know what construction the Secretary of Agriculture may put on

his own rules, and you do not know when he is going to change the rule, for he can change it over night, and you undertake to do business under that sword of Damocles suspended by a hair held in the hand, possibly, of a fool.

But if you pass a rule of law telling these gentlemen that this particular thing is illegal, they can read that law. They can understand it, and if an inspector comes into their place of business and demands that they shall do something which they have a perfect legal right to do, they can go on and transact their business, and he can go into court if he wants to to punish them for a violation of the law.

In one case you have an American citizen living under a law. In the other case you have a socialistic serf living under the mandate of an individual.

I tell you, gentlemen, that if you ever do that you do more harm than you will do good.

I am going to thank the committee, and I am going to go away. But before I go I am going to ask Mr. Hargis, before he concludes his testimony, to put into the record a plain explanation, so an ordinary man can understand it of what "puts" and "calls" are, and a plain explanation of "hedging," and why it is necessary and to what extent it is practiced, and to answer this question: When they talk about a speculator affecting the market, if there can ever be a speculator who sells for the purpose of "bearing" a market, if there must not be a speculative "bull" who buys to boost the market, and if one act is not an exact opposite of the other unless there is a corner by a great combination, and I would like to have him tell you just how many of those corners we have.

Senator NORBECK. It seems, Senator Reed, that they succeed in scaring the bull at times, and he goes a long way before he comes back.

Senator REED. Maybe the bull was in the wrong pasture. Maybe he was making a mistake. There never was a bull, I want to say to you, that sold 1,000 bushels of wheat that there was not a bear right there to buy that 1,000 bushels. If there were not, they could not make a sale.

I am obliged to the committee. I wanted to say that to the committee, because I am distressed about this character of legislation. It has been going on here. If you propose something similar to these packing houses and apply it to these grain exchanges, then why not the produce exchanges? Then why not manufacturers of leather and of steel and of all commodities? When you get through with all of it, having put them under a general rule of law—and I voted for every antitrust bill and anticombination bill that has ever come up that had any sense in it at all—having put them under the dictation of boards, I want some of you to distinguish for me between that and the Government of William II, of Prussia.

I hope this committee is going to give this bill a mighty sound thrashing out. I am going to go now, because if I stay here I am going to take up more of your time, and I have trespassed on it sufficiently. I am much obliged.

Mr. HARGIS. Mr. Chairman, my remarks concerning the cooperative clause were made with these features in view, that if this committee should report out a bill or a recommendation as to some measure I do feel that this particular clause is so important that it should have

unusually serious consideration, beause I think we all understand how much we owe the farmer and how much we owe the going institutions, and I do hope that something better can be worked out than is worked out in the present wording of the cooperative clause of this bill.

The CHAIRMAN. I agree with you that that is a very important provision.

Mr. HARGIS. I really think it is the crux of the bill.

The CHAIRMAN. I feel very much interested in it. I would like to get something constructive out of it, because I want to do whatever can be done to permit the farmer to get whatever profit there may be in his business, even though it hurts somebody else. I think that is a legitimate function as long as there is nothing done that is wrong or that is illegal.

Referring, on page 5, to that proviso, line 3, do you think, Mr. Hargis, that that saving clause that comes in that proviso sufficiently protects?

Mr. HARGIS. You mean this subsection E of section 5?

The CHAIRMAN. Yes.

Mr. HARGIS. I disapprove of that part of it which makes the rules and regulations of the exchange subject to the approval of the Secretary of Agriculture. I would cast no reflection on the present Secretary of Agriculture who I know to be, from reputation, a very high-grade man. What I do feel is this, Mr. Chairman, that any clause of a law where the question of personal judgment is involved can not be any stronger than the weakest man who may be designated to apply it.

The CHAIRMAN. I think that is true, Mr. Hargis. Ordinarily speaking, I do not want to give the power to any administrative officer to make regulations if we can put the regulations in the law; but is it not true, as has been said before, that a rule that would apply to Duluth might not properly apply to Kansas City?

Mr. HARGIS. Yes; that is the difficulty that you encounter.

The CHAIRMAN. That statement, on its face, makes it impossible for us to put the rules in the law itself, it seems to me. If we are going to have any rules we must give that power to somebody to make them.

Mr. HARGIS. They want to be very sound rules, and very few rules if they are to be made. I realize quite as well as you do that there are certain corrections necessary in the grain business as at present conducted. I think the evils are much fewer than most people imagine.

As to this particular clause, I think something better could be worked out of it, and I am sure that the authors of the bill and the chairman will be able to work out something better than is here now.

The CHAIRMAN. I would like to work out something better, but I confess that if we are going to have a law——

Mr. HARGIS. I think you should do this—if you will permit the suggestion. If you are to recommend a bill giving membership, forcing membership before designation as contract market, you should make it a very particular part of this bill that these cooperative companies shall not become competitors of the existing merchants

outside of the business that originates from their own membership. They ought not to be put in competition in a commercial way with those who are in business. In other words, they should not become, on a patronage basis, a commercial competitor for outside business. That is what I mean.

Senator NORBECK. To take care of their patrons only and let the rest alone?

Mr. HARGIS. Exactly that, Senator.

The CHAIRMAN. Would you think we ought to put in here a provision that those doing business on a patronage basis should be confined in their operations to their own members?

Mr. HARGIS. That the disbursements of their profits should be confined to their own members; the patronage disbursement; yes.

The CHAIRMAN. That is the way they do, is it not?

Mr. HARGIS. No. They are disbursing to anybody who comes along. They disburse to men who are not members.

Senator NORBECK. Yes; but not very many of them do.

The CHAIRMAN. If they get in on the exchange they would not divide up with me if I sent them some grain?

Mr. HARGIS. Here is the point that I am trying to make. As I understand it, you do not want to destroy anybody at present on the exchange?

The CHAIRMAN. No.

Mr. HARGIS. You want him to operate if he is performing a legitimate service?

The CHAIRMAN. Yes.

Mr. HARGIS. So does Senator Capper. You have to be mighty careful when you touch that subject that you do not eliminate the commission man at the terminal point.

The CHAIRMAN. If the commission man is doing a business that can not compete with a more economical method of doing business, he ought to be eliminated.

Mr. HARGIS. I will grant you that; the man who is getting admission under this rule is coming in there where the commission man is. You do not make any provision for the commission man to get out of business. You make provision for another man to get into his business; and he has a membership tied up there. How are going to let him out if he is an unnecessary instrument?

The CHAIRMAN. I would not think just at first blush that there was any necessity for making any provision for his getting out. Suppose there is a man in there now and he makes a failure of it. He goes out.

Mr. HARGIS. Certainly; but the point that I am trying to make is that it is unquestionably going to depreciate the value of memberships. It is going, unquestionably, to eliminate a good many commission merchants.

Senator CAPPER. Would you say that was unfair competition?

Mr. HARGIS. I should say that it is almost a writ of ouster, Senator, against the individual who has not proved his uselessness to society but who has been useful to society. And yet, on the other hand, I recognize the fact that farm organizations are coming in some form or other and provision has to be made for them. I would much prefer to see them come in under a central holding company.

The CHAIRMAN. Maybe I do not get the right view of the situation. Let us just take Kansas, now, as an illustration——

Senator NORBECK. As I understand it, the witness says the memberships are valuable and the passage of this act will make them less valuable. There will be a lot of people who have to get out, and get out although they paid a large price for their seats. Is that it?

Mr. HARGIS. The Senator says that the commission man believes this competition will eliminate him. These men who are coming in to compete with us are coming in on a new commercial basis, one that has never been tried. I think we agree on that.

The CHAIRMAN. Let me see if I get it right. Take a concrete case. Suppose the Farmers' Union of Kansas came in if we should pass this law. Would there be more than one representative, one membership, with that union in Kansas?

Mr. HARGIS. I can not tell. If they had a great quantity of business they might have to have four or five memberships. Large firms do.

The CHAIRMAN. It does not mean that every local elevator will have a membership?

Mr. HARGIS. No. I imagine there will be a central company which will handle the memberships.

The CHAIRMAN. I had assumed, for instance, that possibly they would handle two or three States. If the Farmers' Union had a membership on your board of trade and one in Omaha and other places similar to that, they would not have more than one membership in each exchange, would they?

Mr. HARGIS. All right. They are coming into a going institution with one membership. There are men there who are performing that same service——

The CHAIRMAN. Let me go a little further with my illustration before you answer.

Mr. HARGIS. Certainly. Excuse me, Mr. Chairman.

The CHAIRMAN. Suppose in your exchange, after this bill is passed, one representative of the Farmers' Union comes in. Anybody could ship grain to him, could they not?

Mr. HARGIS. Whether he was a member of the association or not?

The CHAIRMAN. Yes.

Mr. HARGIS. I suppose so.

The CHAIRMAN. Suppose I had some wheat and was not a member of anything. I could ship it to him if I wanted to, could I not?

Mr. HARGIS. Yes, sir.

The CHAIRMAN. When he sold it he could charge me the same commission as though you did it?

Mr. HARGIS. Exactly.

The CHAIRMAN. What is your objection to that?

Mr. HARGIS. He would disburse profits to that individual outside of his organization.

The CHAIRMAN. Would he to me?

Mr. HARGIS. That is my understanding of it.

The CHAIRMAN. My understanding is that if there were any profit—and there would be if it were sent on commission—he would get the regular commission from me, an outsider. That would belong to the Farmers' Union that he represents.

Mr. HARGIS. I see. Do you understand they would have a capital investment, under your question, any other than the value of the membership and such funds as were necessary to operate their business?

The CHAIRMAN. I do not know. If a capital would be necessary. It would not, would it, to handle grain on commission?

Mr. HARGIS. Not as you have stated the case. Where it comes from the members of the cooperative company I can see where they can operate at a minimum capital investment; but the point I am trying to get at is this: Why should we make a law permitting one man to come in and represent a coterie of men with no capital investment and then go out and get business from some person not connected with the association and either disburse the profits to him or to those men of his association?

The CHAIRMAN. Suppose I represented a corporation and did not have any disbursing of profits, and we divide it on capital stock. They would sell for anybody, would they not, on commission?

Mr. HARGIS. Oh, absolutely. Any of us would.

The CHAIRMAN. Then what is the difference to the exchange? He charges his commission; he gets paid for it, and he gives the money to his wife, and another fellow gives it to somebody else. What difference does that make to you?

Mr. HARGIS. Two and a half dollars difference will divert a car of grain any time.

The CHAIRMAN. But he has charged the same price.

Mr. HARGIS. He charges it at the time, but later he disburses it.

The CHAIRMAN. But it is to his members. I may be wrong about it, Mr. Hargis, but my understanding is that if he bought from me, or if I sold to him and he handled it for me, I mean acting as my agent, whatever profit there was in that deal would not come to me. I would not get any more out of it than though I sold it to you. He would charge me just the same commission as you would. He would keep it until he comes to settle up with his corporation that he represents, and it would be divided according to the articles of incorporation. What difference would it make whether it was divided on a patronage basis or whether it was divided on a capital stock basis?

Mr. HARGIS. Patronage divests the operation entirely of capital investment and puts it on a tonnage basis.

The CHAIRMAN. Suppose that is true. What injury is that to any legitimate business?

Mr. HARGIS. I can not see why, if the tonnage basis becomes the basis, the man with a great quantity of grain to move will not move it at a lesser rate than the man with one or two cars—I mean through other channels. We break down our rules in one point and they break down in another point. I doubt very much that you can put in a specific clause there that will hold to a certain coterie unless it is most carefully worded.

The CHAIRMAN. I have not been able yet to see, Mr. Hargis, why the modus operandi that I have just outlined is any injustice to you. I can not understand either why they would get the business away from you any more than an individual would. I can understand how the farmer who owns the grain, shipping it in there, would get more for his grain.

Mr. HARGIS. Fractionally more. Do you believe that the fraction that he would get is sufficiently valuable to make it necessary to legislate for him? That is a point, too. It could only be a fraction. If he had 5,000 bushels and half his commission was saved, it would only be $25.

The CHAIRMAN. I am not thinking about the amount involved, but the principle that is involved. I think that we ought to legislate as far as we can, if any legislation is necessary, to permit the producer of any product to value it just as far as he legitimately can. I am not saying that with any disrespect, now, to the middleman, or anything of that kind.

Mr. HARGIS. I believe that, Mr. Chairman.

The CHAIRMAN. They have always performed a valuable service, and a certain amount of that is necessary; but on the broad principle that in the travel of food products, particularly from the producer to the consumer, we ought to eliminate everybody and every profit we possibly can and do a legitimate business.

Mr. HARGIS. I have not any question but that is the intent of this legislation, and to correct any existing evils that there are. The only point is that I am afraid it will not do it. But we will pass that, with your permission, Mr. Chairman.

Senator NORBECK. May I ask one question? Your objection is to letting in a cooperative concern that divides with customers?

Mr. HARGIS. Yes, sir.

Senator NORBECK. Is it based on the theory that under such a plan the customer would receive a larger price for his product than he would through our commission firms, and therefore put an extra handicap on the other commission firms?

Mr. HARGIS. I think that permitting patronage distribution to those who are not members of the association ——

Senator NORBECK. You mean it creates unfair competition?

Mr. HARGIS. Exactly.

The CHAIRMAN. I agree with you that we ought not by any rule or law to permit any one, either directly or indirectly, to pay a rebate for the purpose of getting somebody to consign his grain to him. I can see, as an outsider, that if I sent to the Farmers' Union man a car of wheat to be sold, if I had an agreement with him that he was going to give me a certain part of his commission, that that would be unfair. I do not want to do that.

Senator NORBECK. It amounts to the same thing, it seems to me, Mr. Chairman.

The CHAIRMAN. No. When he is representing a corporation of producers and whatever profit there is there goes to that corporation, I do not see why anybody else should have anything to say as to how they divide their profits. I am perfectly willing to say, in a law, that if he sells as a commission man something that comes from the outside of his corporation he shall make no agreement with that man by which he will split the commission, or anything of that kind.

Senator NORBECK. It seems to me we might limit it to the members, and that will get away from that whole argument.

Mr. HARGIS. I think that will be very helpful.

The CHAIRMAN. Yes, Senator; but it would probably be wrong, it seems to me, to say to this man who represented, for instance, the Farmers' Union of Kansas, "You can not sell me wheat, being an

outsider." Why not let him handle it just the same as any other man? If anybody ships something to him for sale, let him sell it, but let him turn the profits over to the corporation that he represents.

Senator KENYON. That is what the whole thing turns on, whether the profits should go to the organization that does the selling, or go back to the producer as an increment.

Mr. HARDIN. That is an increment.

The CHAIRMAN. If you are basing it on the theory that this commission that selling for some outsider is going to split commissions with that man in order to get him to ship to him, I am with you. I want to protect you in that respect. That ought not to be allowed. Let him do business with anybody, but he must charge everybody the same commission.

Senator KENYON. Is it not your idea that he should return nothing to the man who is not a member?

The CHAIRMAN. That is right.

Mr. HARDIN. Mr. McDermott this morning in his address made reference to the fact that if the futures market and the cash market worked on an even keel there should be a uniform spread between the two all the while, and that there should be a carrying charge from one delivery to the other. That would be the ideal condition under normal times. That is a condition which has prevailed recently on the corn-futures market, but the most ardent member of the exchange will not contend to you that hedging is a perfect insurance. It is the nearest thing to perfect insurance that we have. It is as good as an 80 or 90 per cent coinsurance clause. We can not keep conditions from developing which will enhance the value of the cash commodity relative to the future or depress it relative to the future. The pressure of supplies or the scarcity of supplies has much to do with it. Sometimes there is an acute immediate demand that will keep a near-by future at a premium over a deferred future. Those are perfectly normal things.

The hedge is that facility which permits you to sell for delivery a quantity of grain of a certain grade and in certain amount for delivery at a contract market under the rules and regulations of the exchange from the 1st to the 31st, or the first to the last business day of the delivery month, this delivery being made at the option of the seller.

On the other hand, the miller can use this same future delivery, this hedge, to buy a future of the quantity and grade specified by the contract called for in the market where he trades against his flour sales, and as he accumulates the cash wheat he can release that future. That is a hedging proposition. There is not supposed to be an exact reflection of difference all the while. It is an approximate reflection of the price difference which insures him against any considerable risk of loss and which insures him, to a degree, of a fair margin of profit and limits the risk in his business to such an extent that he is a merchant and in no sense a speculator. That is so well accepted by the bankers that otherwise it would be a physical impossibility to finance the wheat that finds itself in store in Kansas City, for instance, during the surplus rush.

We have a storage capacity there of about 27,000,000 bushels, of which 23,000,000 is fireproof. We have, I think, as much fireproof elevator space as any city in the United States. That includes mill houses.

The grain that comes through that market lands in store at the surplus season and is financed by local firms. The Kansas City banks can not carry all that paper. At one time after release of the wheat to the trade in general there were in our public stocks there and in private elevators nearly 20,000,000 bushels of wheat that was worth $2.75 to $3 a bushel. The warehouse receipts which covered that wheat are floated not only in Kansas City and Chicago but in New York and elsewhere. They are only floated and only accepted by these commercial agencies and banks at the very lowest going rate of interest because of the fact that the wheat is under hedge. The bank or the financial institution which makes that loan asks the question whether that wheat is hedged, and if it is hedged on that certification it lends practically full market value on the wheat, possibly within 10 per cent, figuring, of course, on the moral risk of the firm that is the borrower.

Senator CAPPER. Who are the people who own most of that wheat in storage in these elevators?

Mr. HARGIS. Of course the elevators are run by comparatively few men.

Senator CAPPER. Do they own the wheat?

Mr. HARGIS. There is much wheat in there frequently that is stored for public account. They open their houses to the public at certain published tariff rates.

Senator CAPPER. Who are those people that come there and make use of it?

Mr. HARGIS. To store?

Senator CAPPER. Yes.

Mr. HARGIS. It comes from all over the United States. I do not own an elevator, but I frequently have wheat in store. I buy it against future requirements. I put it in the elevator and hedge it. I may borrow right up to the top, so long as it is being hedged.

The farmer, in my opinion, moves his wheat because it is the normal thing for him to move it immediately after harvest. It is the abnormal and the unusual thing, and, I think, the unwise thing, for a man to hold a crop over into the second year. Nature provides a crop each year, and good economy would seem to indicate that the crop should be merchandised each year. As to what time depends upon the owner of the crop. Many men move their crop shortly after harvest so that they may return to other work and so they may take care of their obligations. The railroads store box cars expecting that seasonal movement. There is every reason why it moves to market and finds storage in these great reservoirs at certain central points; and once having found storage, safe from the weather and safe from vermin and from disease that might affect it, it makes a valuable and liquid security, the most liquid in the world, because it can be merchandised at any minute under a futures market at some price, and it is in position for distribution on short notice to whatever point from which the demand comes.

Further concerning these manipulative depressions, the great majority of them, I think, are on the up-side. Those in the past have been on the upside.

Mr. McDermott further spoke—I am not attacking his statement, Senator; I am just calling attention to what I believe are some inaccuracies in his understanding of the grain business—he spoke of a

cash grain merchant who has wheat to purchase or who may desire to purchase wheat to go to store or to go for export, going into the market and selling fifteen to twenty million bushels of futures and causing a very serious depression in prices. Then quietly going to these other markets, accumulating that wheat and at the same time the cash wheat.

I submit to you that I do not know of any time at which a man can go around in the United States and accumulate a line of fifteen to twenty million bushels of cash wheat in very short order. Certainly I know of no time when a man can accumulate fifteen or twenty million bushels of futures in short order. He is, presumably, already short 20,000,000 bushels of cash wheat. People deal in figures that are entirely out of line with what is practical business. It can not be done. That would have an influence on the market that would be so palpable as to attract the attention of the Government immediately.

I think no man would venture to place himself in a position of that sort. I heard a gentleman remark to-day that the substance of that analysis would be that is a man had to run a mile north he would run 2 miles south in order to be in better position to go a mile north.

That is a type of manipulation that very rarely exists. Frequently men of large means and of good business acumen may be so closely in touch with the financial outlook, the general conditions in the country, that they forecast results quicker than the average American does. As I see it, the average American is more of an optimist than he is an analyst. There are 90 bulls where there are 10 bears. I think there are 95 bulls where there are 5 bears. It takes a cold, clear-headed man to change position. Our natural bent is on the bull side of the market. I have that bent myself. It is just an American trait, I think.

So it takes a very keen man to forecast conditions and take the bear side of the market and bump right into the psychology of the American people.

The governor of the Federal Reserve Board said that the trouble with the American people was that they never knew when they got to the top. They did not know when they stood on this bulge last year; that he tried to indicate it with his interest rates, but it did not take effect immediately. This depression in prices was undoubtedly coming, and I think there was no manipulation connected with it. I just think it was conditions of deflation.

We object to quantity limitation, because that will not afford a fair reflection of supply and demand. If you are going to limit it you take out of the proposition the equation of fairly reflecting the opinion of the whole people. You may think that a million bushels' limit will afford a hedging market, but it will bring forth much more violent fluctuation than a market with free future trading.

The CHAIRMAN. If you were going to fix a limit, where would you fix it?

Mr. HARGIS. I would have no idea. It would be an absurdity for me to say. I believe there is no man alive who is wise enough to fix a limit. I think it can not possibly be accomplished. It is an infinite question; it is not a finite question. You are going to say, then, as soon as you put on a limit, "Supply and demand shall be

reflected only within certain boundaries." Then you make it simply a bob on the water.

The CHAIRMAN. You know, of course, better than I do, what fixing a limit will do.

Mr. HARGIS. It is supposed to prevent this accumulation of overwhelming lines that throw the market off of its proper basis.

The CHAIRMAN. The grain men themselves do not all agree on the proposition.

Mr. HARGIS. I think the net result of the thing would be, if you put a limit on, even a discretionary limit, that you would have more violent fluctuations than you have ever been accustomed to, day to day fluctuations.

I would like to have inserted in the record, if you please, the table of Mr. Frank Crosby. He omitted to give this to you yesterday. It is published in the records of the hearings before the House Committee on Agriculture, marked Exhibit A and Exhibit B, pages 344 to 346 inclusive.

Mr. Crosby called my attention to some of these things. On account of the very small amount of trading in July of 1920 they were not able to get their hedges off very readily. The market would only take a little wheat at a time. On the 1st of August, Washburn-Crosby had not been able to get their stock under hedge. On August 3, they were long 782,000 bushels; August 4, 646,000. The net result was that it took them until August 11 to get their stocks hedged down to 157,000 bushels.

The market, meantime, was suffering a very sharp decline of which you have been told, but they were hedging their stocks just the same. That continued until they finally got them under complete hedge.

I am going to close this very quickly. During Government control prices had a very radical downward change as indicated in tabulation of sales of cash grain at Kansas City during the month of January 2 to February 28 of 1920. It was six months before futures trading was reopened and while the wheat guarantee was on.

Will you please quote from the hearings of the House committee, page 725, the tabulation of prices on No. 2 hard wheat at Kansas City, Mo., as shown therein?

I will just recite to you some of those fluctuations. There had been an enormous export demand from the British, and there came an announcement that they had met their requirements, showing you that a market does respond without futures to gossip. On January 2 No. 2 hard wheat sold in Kansas City at $2.88. On January 6 it was $3.05. It was up 17 cents in four days. On January 10 it was $2.98. On January 12, the next business day, it was $2.90. It was down 8 cents.

On February 21 wheat had declined from $3.05 to $2.25, cash wheat, in Kansas City. No. 2 hard wheat broke 80 cents a bushel from January 2, 1920, to February 21, 1920. There appear to be about 34 business days there. There is an 80-cent decline without any futures, without any trading, and with a Government guaranty of an equivalent of $2.18 at Kansas City. In other words, it broke almost to the basic price.

Then the British came back in the market and commenced to buy. From that low of $2.25 on February 21 it was up on February 26

[illegible] There is an advance of 25 cents without futures. [illegible] w[illegible] cent hedging, and with a Government basic [illegible]

[illegible] How are you justified in saying that it is without [illegible] justifies that statement?

[illegible] were no futures. The Government had closed [illegible] market was not reopened until the 15th of July.

[illegible] There was nothing but the cash wheat?

[illegible] was nothing but the cash wheat. In my opinion [illegible] fluctuation right there than [illegible] have been [illegible] a futures market.

[illegible] ask you another question about that. In [illegible] a fair comparison? Is not that citation taken [illegible] in abnormal times?

[illegible] you what happened. That wheat started [illegible] In July it was worth $2.18 in Kansas City, [illegible] of wheat which the farmers sent in there [illegible] price, and from that $2.18 through the [illegible] export demand it worked up to $3.05. There [illegible] Then in six weeks it broke 80 cents, and [illegible] 25 cents. That is no more abnormal than the [illegible] the futures were reopened, and certainly not [illegible] conditions we have undergone this year.

[illegible] I think conditions are still abnormal myself.

[illegible] do I; quite so. But I think we must admit [illegible] were no more abnormal as regards supply and [illegible] right now.

[illegible] I do not think they are.

[illegible] the general market. That is of interest be[illegible] there are violent fluctuations without speculation [illegible]

[illegible] However, if that evidence were produced concern[illegible] war, or if we had a time when there was not any [illegible] I have a little more weight with me. I dislike [illegible] with the war conditions or the condition that [illegible] because I do not know myself whether they are [illegible] everything is upside down and inside out just now.

[illegible] I think so, too. I believe, though, we will have [illegible] the most we can go. I can not find any parallel for [illegible] prior to the war, and therefore I could not [illegible] further.

[illegible] could you find any time during when the [illegible]?

[illegible] I can not do that. Therefore these are the [illegible] give you.

[illegible] It is the best we can do. I realize that.

[illegible] Mr. [illegible] Chairman, I make a suggestion [illegible] which is helpful, that is, merely exactly [illegible] Surplus feeding and deferred cash sales [illegible] place a very great burden against the [illegible] in keeping stocks for an indefinite period.

[illegible] Commissioner.

[illegible] I [illegible] a most expensive [illegible] which [illegible] a burden to the [illegible] there will be so many

records that we will never get them over here, and nobody will ever be able to compile them. If we keep all the data in futures and cash grain at terminal points as Kansas City, with all the turnover there is in those markets, we will have a mass of data which will take freight cars to bring here and night clerks to compile. It is going to place a terrific burden on the exchanges. Unless some simplified means can be arrived at in the handling of that it will be a very dangerous thing and a very unfortunate thing.

The CHAIRMAN. Let me ask you, do you include in those reports anything that the law contemplates; reports from members of the boards of trade or outside?

Mr. HARGIS. Any member of the board of trade, under this subsection, in my opinion, would have to report.

The CHAIRMAN. If he was operating a country elevator?

Mr. HARGIS. Absolutely so, if he was a member of the board of trade.

The CHAIRMAN. That is the way you read the bill?

Mr. HARGIS. That is the way I read the bill.

The CHAIRMAN. Well, I would like to ask, assuming that a member of the board of trade was running an elevator in the country—I suppose that is common, is it not?

Mr. HARGIS. It is very common, particularly so in the Northwest.

The CHAIRMAN. What would be the benefit of having a report from him on anything except his operations on the board of trade?

Mr. HARGIS. Well, I would prefer, of course, to have a line house man, such as Mr. Wells, answer that question. I can see where the voluminous records might at times be of use, yet at other times it seems to me they would be perfectly useless. I would prefer not to go into the line elevator question, because there are men here who are absolutely in that business.

The CHAIRMAN. Then I will confine my questions to board of trade operations. Should that be very voluminous?

Mr. HARGIS. Very voluminous and very burdensome.

The CHAIRMAN. Even if it included nothing but operations on the board of trade?

Mr. HARGIS. Exactly.

The CHAIRMAN. And I do not know, if we do anything with it, how to cut that out. If we are going to require any reports at all we will pretty nearly have to go that far.

Mr. HARGIS. We were really under a very great handicap while the Food Administration was operating, because of the fact that we had to turn in reports that were necessary in time of war so that they could know where every peck of grain was all the while; but it was really an extreme burden. On the other hand, there was not anything required of us such as might be required under this bill.

The CHAIRMAN. I suppose the object of this is to get information so as to be able to know whether there is anything wrong; and if so, what it is, in the operations of the board of trade.

Mr. HARGIS. I believe that is the intent of it, yes, sir.

The CHAIRMAN. Can we get that without going as far as getting reports from those operations? How could we shut that off in quantity and still get sufficient information so that we would know what was right and what wrong?

Mr. HARGIS. Well, now, is this an inquisitorial law or is it a law to stop manipulation? Is that put in there for the purpose of inquisition, or is it put in there for the purpose of curing defects of the exchange?

The CHAIRMAN. I should say—maybe I am not competent to answer, though—that my own idea is that it is put in there for the purpose of finding out what defects, if any, there are, and from that information to remedy the evil.

Mr. HARGIS. Well, is it merely the authorization of investigation, or compulsion, that we compile many records?

The CHAIRMAN. I do not want to put anything in the law just for the purpose of making somebody some trouble.

Mr. HARGIS Oh, I understand that, of course.

Senator CAPPER. A lot of people would like to know just how much of this board of trade business is actual grain business and how much of it is gambling and speculative business, and every time anybody comes here and presents figures and statistics they are disputed at once. I think, from what I have heard from the people who are interested in this matter, that that is where good would come from this bill, if we could get from the Department of Agriculture some authoritative data on the character of the business that is done on these grain exchanges.

Mr. HARGIS. The great difficulty that I see about that, Senator, is this: After you have compiled all that data as to grain transactions you then will not know whether it is speculative or cash. There is no separation, unless you go back and include everybody in the United States that is in the grain business, or whoever gives an order—every miller, every cattle feeder, every man of any character who trades and finds out and separates all his business. That is the only way you could tell what was hedging and what was speculative. My private opinion is that speculative transactions are extremely more numerous than hedging transactions; but I thoroughly believe that it is most necessary that they should be, if you are to carry your hedges without unfortunate price deflections. I know what you are trying to get at and I do not know how to get at it for you, and I do not know that anybody else does. I wish there were a way, but I do not think it could ever be done.

The CHAIRMAN. I think we ought to get away from the idea that, to my mind, is a little bit exaggerated, although technically justified, that the Secretary of Agriculture is going to try to get so much in the way of reports as to handicap the people who make them and handicap the employees of the Government who have to compile them. I suppose he would enforce that law, and I think we ought to assume that he will do so in a reasonable and sensible way; yet I do not know how to let him do that without giving him the power, probably, to do more.

Mr. HARGIS. That apparently is the great difficulty.

Senator KENDRICK. Would it meet this difficulty to provide that in the future they should be required to keep records on request of the Secretary of Agriculture?

The CHAIRMAN. I think we are all groping about, to a great extent, in the dark.

Mr. HARGIS. I believe we are.

Senator KENDRICK. That would not work any hardship. If he had occasion to suspect manipulation in the dealings of any firm he would insist upon the records being kept.

The CHAIRMAN. But the claim is made here—and I can see some ground for it—that the Secretary could cause an awful lot of trouble and require so many reports that it would be objectionable, yet if we are going to have any knowledge of these things I do not know how we can cut out this power to let him do that.

Senator KENDRICK. The only way in the world is to leave it discretionary with the Secretary of Agriculture.

The CHAIRMAN. We would have to take a chance with somebody.

Senator KENDRICK. After all, I am unable to see very much danger in putting it into his hands, for the reason that in the light of past experience there is not a disposition on the part of Government agents to impose hardships on any industry with which they have had to deal. I happen to recall that during the war instances were brought to the attention of this committee in which commission men had actually violated the law, and other commission men insisted on more severe penalties being imposed upon them than the Secretary himself was willing to impose.

The CHAIRMAN. I remember in the packer investigation a whole lot of things of that kind that developed, and because they had been doing it before they practically said to them, "We will do nothing if you will just reform yourselves and do better in the future," and they did not do anything. However, the charge is made, Senator, and I think there are many instances where it has happened that some fellow gets a little power, and he wants to show it, and goes around and struts and causes a great deal of inconvenience that, I think, is unnecessary. I do not know how to remedy it. If we are going to remedy it, we have to give somebody power to do it. When we do that, we are liable to have, and always will have, abuse of it occasionally.

Senator KENDRICK. Well, there has been testimony offered here that the method of handling this business is almost purely peculiar to this country, and we have one or two other lines of business conducted in the same way. Now, it has seemed, under the experiences of the past two years, that abuses have crept in, and members of the organizations involved are unable to correct these abuses themselves, however much they wanted to do so, and it has seemed to me that it meant the enactment of legislation applied directly to the industry and setting up an agency to enforce the law. It is very different from an ordinary law under ordinary conditions. I don't suppose a judge on the bench wants to punish everybody that is guilty of an infraction of the law. They generally enforce the law with no more severity than is absolutely necessary.

Mr. HARGIS. The point I want to make on that is that some day we might have a Secretary of Agriculture who would be a statistics fiend, and if we ever get one of those they can make it almost impossible of operation.

Senator KENDRICK. Yes; but in every case of which I have information in this country an official of that kind has a very short career. I know now one or two in office that are just as certainly doomed as public sentiment can get at them, and it is because they have

will permit the free marketing of grain, which will permit the free hedging, a proper reflection of supply and demand through the futures market—if you can frame a law that will relieve the exchanges of the criticisms to which they have been subjected as to those things that are real and some things that are not real, place them absolutely, in the public mind, in the high esteem that banks are, then you will have accomplished one of the most wonderful things in the history of the country.

Senator KENDRICK. It is my belief that legislation such as this will disclose the absence of anything wrong as quickly as it will disclose any irregularities or any unfair practices in the business.

Mr. HARGIS. I believe that is what your investigation is for. It is going to be very burdensome for a while. The ultimate result will be a clean bill of health, except that I am afraid when this bill is invoked you will have a sensitive, unsatisfactory market. People will be timid about their contracts. There will be an element of doubt in each trader's mind as to how the authority of the Secretary of Agriculture will be used. I assume that it will be properly used, but I say even that small element of doubt injected is going to make a most trying condition and one which the men delegated with the authority to examine the markets should take into consideration and for which they should feel the utmost sympathy.

Senator CAPPER. You would not object to those regulatory features?

Mr. HARGIS. This bill, 5676, I consider a very damaging bill, Senator Capper; 2363, as it was proposed to amend it, seemed to me to have been a bill which would have met the situation far better than this.

The CHAIRMAN. What bill was that?

Mr. HARGIS. That was the House bill. That never reached the Senate. This is a substitute bill for the original Capper bill.

The CHAIRMAN. This is the House bill we are considering.

Mr. HARGIS. The original Tincher-Capper bill—I mean 2363 That was withdrawn and this is a substitute bill.

Senator CAPPER. This is the original bill with several amendments.

Mr. HARGIS. With some things cleaned out and some things introduced.

Senator CAPPER. Yes.

Mr. HARGIS. There is much more authority delegated to the Secretary of Agriculture by this bill than by the other bill. The right of revocation of license is very definitely given in this bill.

The CHAIRMAN. Now, you are speaking of a subject that seems to me not difficult to remedy. Assuming the committee would take your viewpoint, and should provide that before any suspension should take effect, a board must approve it. But there are some of these other things you suggest, about the placing of power in somebody's hands, that I do not know how we are going to do anything without. It seems to me we might place it in different places. We might place it in a board, as somebody suggested, but it is conceded that some of these things can not be done by statute that Senator Reed wants to do.

Mr. HARGIS. Yes. I very much doubt it.

The CHAIRMAN. So somebody must make these regulations.

The CHAIRMAN. If we eliminated that there would be no power left. That is the only thing that subsection does.

Mr. HARGIS. No; it prevents the manipulation of prices.

The CHAIRMAN (reading):

When the governing board thereof provides for the prevention of manipulation of prices by the dealers or operators upon such board, including——

Mr. HARGIS. You see that is "including."

The CHAIRMAN. Yes. You are right.

Mr. HARGIS (reading):

When the governing board thereof provides for the prevention of the manipulation of prices.

Senator CAPPER. That part of it is all right, is it?

Mr. HARGIS. I should say if they used usual diligence, or diligence in endeavoring to do that, and were faithful in the discharge of their duties. I can see where we might have rules for preventing manipulation and some men might get by on it. It places a burden on the officers of an exchange which is appalling to a man in official position. It is requiring the chief executive and his directors to take a terrific responsibility.

Senator CAPPER. It ought to be prevented?

Mr. HARGIS. Oh, absolutely. I think that clause can be worked out by Senator Capper and yourself, Mr. Chairman, and Mr. McDermott, I think, and the Secretary of Agriculture. I think something can be worked out of that which is very much better than this. You understand in discussing all of these clauses I am discussing them from this viewpoint only; that I believe that a free and untrammeled market which is not at any time hazarded by the question of personal judgment in regulation will afford to the American people a very much better market than one ever can under the provisions of this bill; the membership of our exchange in Kansas City is very much opposed to the direct intervention of the Government by delegated authority of an executive to regulate its business.

Senator KENDRICK. Right along that line, don't you believe that it is quite within the range of possibility that your exchange would come to the time when they would boast that they were under Government supervision?

Mr. HARGIS. If it were the right sort of supervision that might happen.

Senator KENDRICK. That is the idea exactly, because it would certainly, in my judgment, have the beneficial effect of creating confidence on the part of the public that the exchange is handled in an entirely honorable way.

Mr. HARGIS. I think all of you gentlemen must understand that the men who are appearing before you, taking it for granted that they are honest, would like to see all this question as to the character of the business clarified and the institution, as a great economic benefit, recognized for its true worth, and not subjected to criticisms that are oftentimes unwarranted but sometimes warranted.

The CHAIRMAN. Is it not true, as Senator Kendrick has just said, that Government control would have a beneficial effect in creating confidence on the part of the public?

Mr. HARGIS. If you gentlemen can be so wise—and I say this with all respect and with absolute sincerity—as to frame a law which

you must make up your minds, if this bill ever becomes a law, that you are going to see a very timid marketing system, great fluctuations will be most usual, and you will find an absence of investor buyers, and you will also find lower prices. I think those are the penalties that must be suffered by the American people if they want to make this experimental work go through. It may be that after this measure has become a law, if it does, you will find the provisions of the law will permit things that will give the United States a better market, but I very seriously doubt it. I want to venture the opinion that you will never find anything so good as the exchange, even with its evils. Those evils, I am inclined to think, will be cured. Of course, it is said to us, "You have not cured this short selling." We have not been faced with that. We have not been charged with it before. It may be that the exchanges themselves will work out a plan to control that as they did on the bull side of the market.

Senator CAPPER. Would you regard this blackboard game that is run all over the country as an evil?

Mr. HARGIS. You refer to the interior wire house, Senator Capper?

Senator CAPPER. Yes, sir.

Mr. HARGIS. My personal opinion is that the interior wire house, while in many instances it serves as an advantage in the expedition of business, it also affords an opportunity for speculation by people who can not afford to do it. It is an incident, but it is a very damaging incident so far as the moral situation goes.

Senator CAPPER. No effort has ever been made to correct that?

Mr. HARGIS. The Kansas City market, Senator Capper, has very few extensions of its wire system. So far as I know, the agitation of the wire subject has never before come up. I believe that some of them have the question in mind now of eliminating or controlling the private wires. Of course, it is a very difficult thing to say that a town of 500 people should not have a private wire and a town of 500,000 should have. The question is whether the evil that it does more than offsets the good that it does. I was talking to a Chicago operator the other day, one of the very finest houses there. He told me that one of his wires in a town of 5,000 dealt in 1,000,000 bushels of cash grain over that private wire, and only had 60,000 bushels of speculative business. There was no speculation going on, but the men were selling grain.

I appreciate the fact that the moral question enters into everything, but we can not legislate on the economic and the moral at the same time, apparently. I think if we eliminated the trading that went on over these privates wires in small towns, you would not seriously affect the speculative trade.

The CHAIRMAN. What would you say about eliminating puts and calls?

Mr. HARGIS. Oh, by all means.

The CHAIRMAN. It ought to be eliminated?

Mr. HARGIS. Yes.

Senator NORBECK. Will you explain puts and calls to us?

Mr. HARGIS. A put or a call is the option of making a transaction in grain for certain delivery at a certain price away from the market within a certain time limit and for this privilege a bonus is paid. That is merely an option to trade.

Senator NORBECK. Is that a put?

Mr. HARGIS. I did not make it either a put or call. I merely explained the option.

Senator NORBECK. A put or call is simply an option to trade on a certain basis?

Mr. HARGIS. Yes. A put is the privilege or option of trading at a certain price in case the market drops. A call is the privilege or option of trading at a certain price in case the market advances. A bonus of about $1 per 1,000 bushels, or $5 for each 5,000-bushel lot is charged for this option by the seller.

A spreader is a trader who operates between two markets, selling a future in one or buying in the other, or in the same market buying one future and selling another, because of the fact that he believes that the difference in price reflected by the two futures or in the two markets is out of line with the usual, normal, or the probable future commercial difference. He is neither long or short at any time, but keeps his trades evenly balanced.

Senator CAPPER. Is he dealing in cash grain at any time?

Mr. HARGIS. A spreader?

Senator CAPPER. A spreader?

Mr. HARGIS. There are many spreaders who are also in the cash business. There is nothing to prevent a man from doing it.

Senator CAPPER. Would you say that a spreader is largely a speculative trader?

Mr. HARGIS. The spreader is largely a speculative trader; yes, sir; but a most valuable one in broadening the market, without either being long or short, and affording thereby excellent hedging facilities.

One other thing, if I may, Mr. Chairman.

The CHAIRMAN. All right.

Mr. HARGIS. This morning, or yesterday, I believe it was, the statistician, Mr. Tator, made an observation concerning the profits of a concern, three and a half million dollars, I believe he said. That is, the net profits were three and a half million dollars, besides which they had lost three and a half or four million dollars on hedges, and he attempted to prove thereby that the hedge was an economic loss, and that the $7,000,000 had been extracted from the producer. The fact of the matter is that whenever the firm—whoever it may have been I have no knowledge—bought the cash grain it sold a future against it, and so far as that firm was concerned it had disposed of its holdings and continued to dispose of them throughout the year, and naturally when it completed its transactions it had to accept the losses. I am quite convinced that Mr. Tator would not intentionally have submitted to you that any grain company making three and one-half million dollars would have intentionally given away three and a half million dollars and then come here and fight for that kind of a market. That impression is often left by the figures. There is nothing to show how many million bushels of grain that was made up of, but it must have been a very great many.

You gentlemen have been very, very patient with me. I have tried to answer you on any of these things. I would like to put into the record, if I may, a copy of a letter written by Mr. Thornton Cooke, president of the Columbia National Bank of Kansas City, to Mr. C. Q. Chandler, president of the First National Bank of Wichita, Kans.

This is interesting, because it was written on October 27th last. It came to me in January. This banker very clearly outlines the futures course of the market and gives his impressions as to the value of hedges and of speculation.

The CHAIRMAN. All right; you may file that.

(The letter referred to is as follows:)

OCTOBER 27, 1920.

Mr. C. Q. CHANDLER,
First National Bank, Wichita, Kans.

DEAR MR. CHANDLER: I am much complimented that you ask me my views about the board of trade and the wheat market.

It would be a mistake to close the board of trade. The effect of trading in futures in any commodity is to anticipate, and therefore minimize the fluctuations in price. If the consensus of opinion of traders on the board of trade is that the world supply of wheat is large relative to the demand, the price of wheat will fall sooner, but less violently, than if there were no trading in futures, and the facts as to supply and demand became evident later. This estimate of the effect of speculation was proved by the violent fluctuations that took place during the war when the board of trade was closed. It works the other way just as well. If the conclusion of the traders on the board of trade is that wheat is going to be in short supply and large demand, they will bid up the price of futures early in the crop season, with the result that millers and others will provide for their wants early and that heavy consumption, which might otherwise take place early in the crop year unnecessarily, will be discouraged. Just as when wheat is sold short and cheap consumption is stimulated early in the crop year with some compensating effect on prices; otherwise a lot of people might get along on less wheat for several months than it would really be proper for them to consume, and then find along in April that there was after all a very large quantity of wheat which they could have afforded to eat if they had known in time of the existence of such a surplus.

Of course I am not indorsing the motives that frequently actuate speculators, but am merely pointing out the way it seems to me speculation usually works.

A good many people here think that the Canadian wheat crop has been overestimated, but certainly lots of wheat is coming to market from Canada and coming very rapidly. The premium on exchange operates as a bounty on the export of Canadian wheat. If a bushel of Canadian wheat is sold in the United States, either for American consumption or for export, at a price of $2, the seller will get about $2.20 in Canadian currency, and inasmuch as prices have not gone up in Canada in full proportion, the seller really feels that he is getting $2.20 for his wheat.

It seems to me fully demonstrated that wheat will have to sell lower in the near future. The strain on the banks can not long continue as it is without disaster. Bankers know this, and at some points are simply forcing farmers to sell whether they want to sell or not. Enough of this selling will go on to keep the price low, and put it lower. Any undue resistance to this natural movement would be very likely to create an explosion in financial circles.

At the same time I see a possibility of very much higher wheat in April or May. Exports have been large already and a good deal of wheat has been sold for export that has not yet been shipped. If the export demand should continue we might find our bins uncomfortably low next spring, and then the price would skyrocket. This question depends on the state of foreign wheat supplies and on European ability to buy and pay for our grain, two questions on which I have not been able to obtain opinions that satisfy me. About the early future of the market, however, I have, as stated above, no doubt.

Would you mind dropping me a line about your conclusions when you have assembled various opinions?

Very sincerely, yours,

THORNTON COOKE, *President.*

Mr. HARGIS. Also a statement of receipts at Kansas City for the years 1919 and 1920. That is the official record of the grain exchange.

The CHAIRMAN. You may file that also.

(The statement referred to is as follows:)

CIRCULAR 336.

BOARD OF TRADE, SECRETARY'S OFFICE,
Kansas City, Mo., January 10, 1921.

To members:

Receipts.

		1920	1919
Wheat	bushels	70,738,650	72,137,250
Corn	do	10,813,750	15,801,250
Oats	do	7,553,100	12,503,500
Kafir, milo, and feterita	do	6,066,500	2,150,500
Rye	do	893,200	612,700
Barley	do	2,461,500	2,140,500
Total	do	96,526,700	105,345,700
Flax	do	.....	3,000
Bran and shorts	tons	49,480	52,920
Hay	do	559,860	461,676
Flour	barrels	674,700	790,400

Amount of flour manufactured in Kansas City in 1920 was 3,597,246 barrels. Compared with the year 1919 the records show: Wheat, 1,398,600 bushels decrease. Corn, 4,987,500 bushels decrease. Oats, 4,950,400 bushels decrease. Kafir, kilo and feterita, 3,916,000 bushels increase. Rye, 280,500 bushels increase. Barley, 321,000 bushels increase. Flax, 3,000 bushels decrease. Bran and shorts, 3,440 tons decrease. Hay, 98,184 bushels increase. Flour, 115,700 barrels decrease.

Amount of flour manufactured shows a decrease of 30,905 barrels.

E. D. BIGELOW, *Secretary.*

Mr. HARGIS. Now, gentlemen, are there any other questions?

The CHAIRMAN. I think that is all, Mr. Hargis.

Mr. HARGIS. All right, gentlemen; I thank you.

The CHAIRMAN. We are very much obliged to you.

The committee will stand adjourned until 10.30 o'clock to-morrow morning.

(Whereupon, at 5.35 o'clock p. m., the committee adjourned until 10.30 o'clock a. m., Saturday, June 4, 1921.)

FUTURE TRADING IN GRAIN.

SATURDAY, JUNE 4, 1921.

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE AND FORESTRY,
Washington, D. C.

The committee was called to order by the chairman (Senator George W. Norris) at 10.30 o'clock a. m.

Present: Senators Kenyon, McNary, Capper, Keyes, Ladd, Norbeck, Smith, and Kendrick.

The CHAIRMAN. The committee will come to order. We are ready to proceed with the hearing.

STATEMENT OF MR. F. C. VAN DUSEN, OF MINNEAPOLIS, MINN., REPRESENTING THE MINNEAPOLIS CHAMBER OF COMMERCE.

The CHAIRMAN. Mr. Van Dusen, will you state your full name for the record.

Mr. VAN DUSEN. F. C. Van Dusen, representing the Minneapolis Chamber of Commerce.

The officers and directors of the Minneapolis Chamber of Commerce wish to protest against this legislation on the grounds of its being unwarranted and unjust.

That there may be a clear understanding as to the purpose for which the chamber of commerce was organized, I wish to State that it was organized under the laws of the State of Minnesota—transacts no business—and was not organized for profit. It has a membership consisting of 593, each one of whom, before he is admitted to membership must be able to comply with its requirements and agree to conform to its rules and regulations. The rules are all made by the membership and the administration of them is by the officers and directors elected by and from the membership.

Senator KENYON. Before you proceed further, are you connected with the chamber of commerce?

Mr. VAN DUSEN. Yes, sir.

Senator KENYON. What position do you hold with it?

Mr. VAN DUSEN. I am director and second vice president.

Senator KENYON. Let me ask you if that chamber of commerce is connected with the United States Chamber of Commerce?

Mr. VAN DUSEN. No, sir.

Senator KENYON. It is not connected with it in any way?

Mr. VAN DUSEN. We are a member of the chamber, that is all.

Senator KENYON. I would like to ask if you have had any communication from the United States Chamber of Commerce.

Mr. VAN DUSEN. In regard to this bill?

Senator KENYON. In regard to this bill.

Mr. VAN DUSEN. Not that I know of.

The rules have been made and changed from time to time, as the business seemed to justify or require.

As said before, the chamber of commerce transacts no business—it simply furnishes the facilities for its members to transact business either for themselves or their customers.

The grain business of the United States has increased as the production of grain has increased, and the system under which the business is handled to-day is the result of experience extending over a period of at least 75 years. Because of the perfection of the system as well as the large volume of the business, it is quite generally conceded that the grain business in the United States is handled on the smallest margin of profit between producer and consumer of any business that there is. Prof. L. D. H. Weld, an investigator for the United States Department of Agriculture, states as a result of his investigation for the Bureau of Markets: The farmer received 90 per cent of the price paid for his bushel of wheat by the Minneapolis miller.

Senator CAPPER. Did you say that Mr. Weld is an investigator of the Department of Agriculture?

Mr. VAN DUSEN. Yes, sir; for the Bureau of Markets.

Senator KENYON. Is that the same Mr. Weld connected with the Swift Packing Co.?

Mr. VAN DUSEN. I do not know that.

Senator LADD. When was that report made?

Mr. VAN DUSEN. Several years ago; I do not know the date.

Senator KENYON. How long ago?

Mr. VAN DUSEN. I do not know the exact date.

Senator LADD. Do you know what business Mr. Weld is engaged in now?

Mr. VAN DUSEN. No, sir.

Senator CAPPER. I think he appeared here for the packers.

Senator KENYON. Yes.

Mr. VAN DUSEN. He was, at the time I mention, making this investigation.

Senator KENYON. That was five years ago?

Mr. VAN DUSEN. I don't remember exactly.

Senator LADD. It was more than 10 years ago, if I remember correctly.

Senator KENYON. That is important in getting at how recent you are testifying about.

Mr. VAN DUSEN. However, in a general way, I would say that I believe his statement would apply to-day just as much as it did at the time it was made, unless, possibly, the question of the advance in freight rates might have some bearing on it.

In this case the wheat has gone through a country elevator, been transported from 100 to 200 miles, sold by a commission man—possibly stored by a terminal elevator—and sold to the miller.

In making this statement I do not wish to be understood as claiming that grain business as conducted to-day is absolutely perfect nor that there can not perhaps be some changes made that may improve the system. I do think, however, that there have been many wrong and very unjust criticisms made that have given some people

impressions and understandings that were not based on the facts or actual conditions.

Future trading is one of the methods used which makes the handling of grain on the small margins that it is handled on possible. To illustrate, the country elevator operator buys from the farmer to-day 5,000 bushels of grain. The price that he pays is based on what he knows the terminal price to be, and he immediately sells a corresponding amount of grain to secure himself against a decline in price and to secure the buying margin which he had in the grain when the purchase was made. The sale which he makes may be either for delivery on track at the country station for shipment or delivery at some future time which is designated, or by selling a deferred future. In either case he has protected himself on the transaction and secured his buying margin. The Federal Trade Commission has been making a very exhaustive investigation of the grain business, and although it has been working on the subject for the past four years, it has only made its report on a part of the business. The report covering the country-elevator business is contained in volume 1 and has been given distribution. By referring to page 192, Table 67—and this is the volume of the reports, sir [indicating a printed volume]—you will find the result of its investigation as to country-buying margins. This table covers the period from 1912 to 1917, both inclusive, and taking No. 1 northern wheat as an illustration, you will find that with the exception of the crop year 1916–17, which was the year of our entering the war and therefore not a fair comparison, that there is no year during that period covered by its investigation when the average buying margin was as much as 6 cents per bushel. You will understand that this was the gross buying margin and from this the country-elevator operator has to pay his operating expenses, which include all the local expenses—insurance, taxes, etc., interest on his investment in his plant and business—interest on either his own or borrowed capital, as well as commissions and other terminal charges.

In arriving at this result the prices paid for the wheat were used as against the actual amount received for it when sold. I wish to make this clear for the reason that it seemed to me from testimony that was offered before your committee on this subject that you were left with the impression that prices paid the farmer for his grain at country stations were not based on the selling prices of the same kind of grain at terminal markets. Quite the contrary is the case, as grain purchased at country points is always purchased on the basis of the prices being paid at the terminal market to which the grain is tributary.

There is always a market for the farmer, so that he is able any day of the year to market his grain for cash, except in the sparsely settled portion of the far West, without his having to haul a very great distance.

The terminal-elevator operator as well as the miller, the exporter, the shipper, furnish a ready market for the grain when it reaches the terminal market. With these various interests in the market much of the time, there is keen competition, and the grain is naturally sold to the highest bidder and on its merits. With the opportunity to hedge his purchases by selling a future at the time he purchases

cash grain, the buyer is willing to and does work on a very small margin. Without this opportunity of protecting himself from a loss through a decline in the market, the terminal elevator man would not be justified in accumulating grain in his terminal storage, neither would any of the other buyers be justified in buying grain unless it was to be immediately sold for export or to be ground into flour or consumed in other ways. This would, in my judgment, eliminate a great deal of the buying power that now exists in the markets, and at times there would be buyers only on a basis that would be so low that they would feel justified in assuming the risk of ownership.

A question was asked by one of your committee: "Why can not grain be handled and mechandised the same as any other commodity." It could be, but if it were to be instead of its being handled on the smallest margin of profit of any commodity that is handled it would have to be on a very much wider margin than many other lines of business because of the risks involved. Because of the lack of proper facilities for storing his grain on the farm, together with the fact that the farmer needs or wishes to get money for his grain, the bulk of the grain raised is marketed during the first four months after harvest. There would not be a great many buyers who would be either willing or financially able to buy and accumulate grain during this four-month period, and hold it until there was a demand for it either for consumption or export. During the hearings before the Committee on Agriculture of the House I made the following statement: Among the false statements repeatedly made with reference to future trading is one to the effect that future trading and the operation of the futures markets tend to depress the price greatly in the fall during the heavy crop-moving period and to enhance the price in the spring after the crop is largely passed out of the producers' hands. This misstatement is so frequently made that it becomes necessary to examine the facts.

The United States Department of Agriculture records of the price of wheat at Minneapolis for each month in the year for many years are available to the committee. Taking the 19-year period from 1895 to 1914, the United States Department of Agriculture figures show that averaging the prices for wheat in Minneapolis in the month of October on each of the 19 years above mentioned, would show that the price of wheat in Minneapolis in October—the height of the crop-moving period in the Northwest—was only 3 cents per bushel less on the average than the price of wheat at Minneapolis in the following April. In other words, the United States Department of Agriculture figures show conclusively that the producer of grain in the Northwest selling his wheat in Minneapolis in October for 19 years would have received only 3 cents per bushel less than the producer who sold his wheat in April of each year for the 19 years mentioned.

Senator CAPPER. Have you any figures since 1914?

Mr. VAN DUSEN. I beg your pardon.

Senator CAPPER. I asked you if you had any figures on that matter for the years since 1914?

Mr. VAN DUSEN. I did not go over that because that brought us into the war period, which I felt was an unusual condition.

The 3 cents per bushel scarcely represents the cost of carrying wheat from October to April and barely suffices to cover the interest

upon the money, cost of storage, shrinkage, etc. This record shows conclusively that future trading does not depress the price during the heavy crop-moving period and advance the price in the following spring.

As I do not understand that the bill which we are giving consideration aims to eliminate future trading, nor that you gentlemen of the committee think that it should be eliminated, there is no necessity of my discussing that question except to say that any law, regulation, or restriction that results in limiting of trading so as to prevent the prompt and satisfactory use of the hedging market will interfere with the handling of the grain business on the narrow margin of profit that it is handled on at the present time.

Another point which I think should be emphasized is that under the system that has been built up for handling the grain crop of the United States, which includes the opportunity of hedging all purchases as soon as made, is the financing of the business. The buyer at a country station is able to borrow what money he needs to properly conduct his business, either from his local banker or the commission house to which he ships his grain. This enables him to compete with other buyers either in his own market or with those located at competing stations. He is also able at all times to pay cash for his purchases. At the terminal market there has been such protection placed around warehouse receipts issued against grain held in terminal elevators that banks consider such receipts as desirable security as anything on which they are asked to loan money. They are, however, very careful to know that the grain is hedged so that the owner of it is protected from a loss in case the market should decline.

Should any legislation be passed that would result in the owner of grain either at the country station or terminal market from properly hedging his grain purchases, it would result in a great many dealers being obliged to discontinue doing business because of their inability to borrow money with which to conduct their business. This would result in the business being handled by fewer dealers and on a much wider margin, which would mean that the producer would not receive as large a price compared with what the consumer pays as he does to-day.

Senator LADD. You spoke of the margin. What was the margin this year, Mr. Van Dusen?

Mr. VAN DUSEN. The margin this year, because of the price being considerably higher than it has been at some previous periods, and because of the uncertainty of properly hedging, has been somewhat wider than ordinarily.

Senator LADD. Well, what would you say it was?

Mr. VAN DUSEN. I would say about 10 cents per bushel based on the "to arrive" values of the wheat.

The CHAIRMAN. Does any member of the committee wish to ask Mr. Van Dusen any questions?

Mr. VAN DUSEN. I would be glad to say some things about the bill if you care to have me do that.

The CHAIRMAN. Yes; all right, if you will.

Mr. VAN DUSEN. Personally, my feeling is that if this bill as drawn becomes a law it will be very disastrous to the interests of the

producer, because I believe it will be impossible for the exchanges to properly function under it. I think it would restrict trading to such an extent as to seriously affect the hedging market.

Another thing in regard to it is that I think it is unjust and unwarranted.

Senator CAPPER. How will this bill affect the hedging market?

Mr. VAN DUSEN. I think it will restrict trading to such an extent that men who would otherwise be in the market trading, either in the line of scalping or spreading or speculating, would turn their attention elsewhere.

Senator CAPPER. Well, do you mean it restricts speculation and gambling and not hedging?

Mr. VAN DUSEN. Anything that limits the volume of trade or prevents prompt and satisfactory execution of orders——

Senator CAPPER. Does what?

Mr. VAN DUSEN. Anything that prevents the prompt execution of orders will affect the hedging market.

One reason, I believe, why the markets have been as unsatisfactory as they have been since July 15 last is that for a period of three years there was no futures market on wheat. There was no trade. When the futures market was opened on July 15 there were small stocks of grain on hand at the terminal markets. People had not been in the habit of trading. Therefore, the volume was not sufficient to properly stabilize the price.

The CHAIRMAN. Mr. Van Dusen, one of the propositions you laid down here, if I understood what you said a little while ago, was that anything that restricted trade would be injurious. Would the prohibition of gambling, if it could be done, restrict trade?

Mr. VAN DUSEN. Well, there is quite a difference of opinion as to what is covered by the word "gambling," but I think anything that limits the volume of future trading affects the liquidity of the market.

The CHAIRMAN. If gambling were prohibited, it would prevent that volume, somewhat, would it not?

Mr. VAN DUSEN. If you limit trade of course it affects the volume.

The CHAIRMAN. Well, I am asking about this specific proposition. If you prohibited gambling, that would prohibit some trading on the boards of trade, would it not?

Mr. VAN DUSEN. Yes; if you call trading in futures gambling. I do not.

The CHAIRMAN. Well, I do not. I am not saying that. I want to distinguish between dealing in any honest deal in futures, and pure gambling. I want to confine myself, and I wish you would in your answer, to gambling. If that is prohibited, would it restrict the volume of trade?

Mr. VAN DUSEN. Well, I want to be perfectly frank in my answer, Senator.

The CHAIRMAN. Yes; and I want to be frank in my question.

Mr. VAN DUSEN. And try to answer the question exactly as you want to have it answered.

If you mean that any man who buys or sells grain for future delivery gambles, and that is prevented or restricted, then, of course, you would narrow the market.

The CHAIRMAN. No; I have distinctly stated that I do not mean that. Let me ask you another question, so that I can get it to you. Do you admit that there is some gambling on the boards of trade?

Mr. VAN DUSEN. Undoubtedly.

The CHAIRMAN. If that were prohibited, would that restrict the volume of trade?

Mr. VAN DUSEN. I do not know how you could designate that or decide what might be called gambling.

The CHAIRMAN. I am letting you do that.

Mr. VAN DUSEN. I can not do it.

The CHAIRMAN. Well, you say there is some; you admit that?

Mr. VAN DUSEN. Undoubtedly there is.

The CHAIRMAN. Now, assuming that that could be prohibited, and that it was prohibited, would that restrict the volume of trading?

Mr. VAN DUSEN. If there is.

The CHAIRMAN. You say there is.

Mr. VAN DUSEN. If there is gambling, as I say undoubtedly there is, and if that can be eliminated from the market, that would make less trading than there is with it.

The CHAIRMAN. Anything that lessens trade in your judgement would be injurious?

Mr. VAN DUSEN. It is a danger; yes, sir.

The CHAIRMAN. Does it not follow as a natural conclusion, then, that we must protect gambling in order to prevent that?

Mr. VAN DUSEN. I do not think a reasonable amount of trading in the market—I do not want to get this confused with manipulating——

The CHAIRMAN. No; I do not, either.

Mr. VAN DUSEN. Just trade.

The CHAIRMAN. Yes.

Senator SMITH. Mr. Chairman, I would like to ask the witness a question at this point.

The CHAIRMAN. Just permit me to go on a little further with this, Senator.

Then, the logical conclusion, according to your judgment, as I get it, is that the stability of this market depends to some extent upon the permission of gambling on the boards of trade?

Mr. VAN DUSEN. Well, if, as I said before, you call the buying of grain or the selling of grain for the purpose of securing a profit gambling——

The CHAIRMAN. No; I said before, and I repeat, I do not mean to say that buying and selling of futures is gambling. I do not believe it is, but it seems to be conceded that there is some gambling. You concede it, and I think everybody has conceded it. Now, your argument is, as I deduce from your statement, and reach the conclusion from it, that anything that restricts trade will be injurious and that if we restrict gambling we do restrict trade, therefore it follows that the prohibiting of gambling is injurious to trade. If we do not want to injure trade then we must permit gambling.

Mr. VAN DUSEN. If I understand your explanation correctly, you say that buying or selling or trading in futures is not gambling?

The CHAIRMAN. No; not necessarily so.

Mr. VAN DUSEN. I agree with you in that.

The CHAIRMAN. Yes.

Mr. VAN DUSEN. Therefore, I do not see just what the point is.

The CHAIRMAN. Well, the point is that you say that there is some gambling. I am letting you define it, letting you have your own

idea of what gambling is. You say there is some, and you also say that if we prohibit gambling and stop it we restrict trade, and if we restrict trade we injure it. Then, it must follow that gambling must be permitted if we do not want to restrict trade.

Mr. VAN DUSEN. What I meant to say was that there ought to be some trading on the markets that might be considered as gambling. If you do not consider it as gambling I do not see that that applies on this future trading proposition at all.

The CHAIRMAN. Well, I do not understand it still. You can define gambling as you want to. We may still disagree on that, but take your own definition.

Mr. VAN DUSEN. The difference between gambling and speculation or investment is a rather difficult thing to state.

The CHAIRMAN. All right, Senator Smith.

Senator SMITH. I wanted to solve the point that you were trying to get at and I think I understand the position the witness is in.

There is trading in the future market, marginal trading in which there is, perhaps, no anticipation on the part of the buyer or the seller to demand the grain, but to settle on the market margin. If the market goes down after he has bought he settles his loss, which is the difference between what he bought it at and what he had to sell it at. If the market goes up he makes the difference, but some of those buyers, the marginal buyers, or sellers, sometimes handle grain, do they not?

Mr. VAN DUSEN. Every trade that is made on every exchange must be made contemplating delivery of the actual grain to satisfy the trade.

Senator SMITH. Yes; but even on your market, the legitimate spot dealer hedges to protect his spot purchases out there in the country by the marginal action of the board, does he not; for instance, if I buy the wheat out here, the spot wheat, not on the board of trade but from the farmer, and I hedge it on the board, I do not demand delivery of your exchange.

Mr. VAN DUSEN. Not until the termination of the delivery month for which the trade is made.

Senator SMITH. Yes; and even then, if I have simply hedged a purchase that I have myself made, I do not demand the grain.

Mr. VAN DUSEN. He must either deliver the grain or settle when the future month expires.

Senator SMITH. You settle when the future month expires, but there is no exchange of grain. We settle on the market at the date of settlement as compared with the date of making the contract. You get me, don't you?

Mr. VAN DUSEN. I think I do.

Senator SMITH. Well, when you buy or sell and hedge on the stock exchange—I am not familiar with the grain exchange but I am familiar with another one sufficiently to get the general run of those things—when you buy or sell a contract on the exchange as a hedge, it is either against a purchase or sale, you simply put it in as an insurance against your purchase or sale?

Mr. VAN DUSEN. Yes, sir.

Senator SMITH. Exactly. Now, at the end of the month, you cover your contracts?

Mr. VAN DUSEN. Yes, sir.

Senator SMITH. And if you have a loss, you make it good. If you have a profit, you get it?

Mr. VAN DUSEN. That is right, Senator.

Senator SMITH. Exactly. Now, the man that goes in and buys or sells on margin, who has no purchase, it is not a hedge; it is a speculation. I go in and buy a thousand bushels of wheat, not as a hedge, but as a speculation, and at the end of the month, if I have bought and it goes up, I take my profit. If at the end of the month it has gone down, or at the termination of the contract, I make good my loss. That is, I settle on the margin. We do not exchange the wheat.

Senator NORBECK. But you have an option to deliver the wheat?

Senator SMITH. Yes; he has the option of serving notice that he is going to demand it, too.

Mr. VAN DUSEN. If you make a purchase you must stand ready to take the actual grain on that purchase.

Senator SMITH. Of course.

Mr. VAN DUSEN. If it is not delivered to you at the close of the market, on the last day of the month, then it will be settled by payment of the difference.

Senator SMITH. But the great volume of it—not the great volume, but a considerable per cent of the trades never contemplate either the delivery or the demand for delivery.

Mr. VAN DUSEN. It must be made in contemplation of the delivery.

Senator SMITH. That is ostensibly the contract.

Senator KENYON. It is in the contract.

Senator SMITH. It is in the contract.

Senator KENYON. It is printed there.

Senator SMITH. It is in the contract.

Mr. VAN DUSEN. Yes, sir.

Senator KENYON. With a mental reservation.

Senator SMITH. Some of us are laymen here, including myself and Senator Kenyon, but to illustrate, if we contract for a thousand bushels of wheat at $2 a bushel to be delivered in July, a July contract; the end of the month comes, and wheat has gone up. I say, "Now, what do you want, the wheat or the difference between what I sold it to you at and what it is to-day"? He says, "Just give me whatever profit there is," because what would be the use if he were not going to grind the wheat and use it himself, and both of us were interested in what we could make out of it, of buying the wheat and delivering it to him; but I would just pay the difference between the price then and on the day we made the contract, and settle it up.

Senator KENYON. Suppose the Senator wanted to deliver the wheat, is there enough wheat raised or corn raised to fill these contracts that take place on these boards? Is it not perfectly idle to say that every contractor expected delivery? Of course, they could put it in the contract in order to save it from being a gambling transaction; but have there been any figures here showing that if these contracts were carried out and actual deliveries made there would be enough stuff in the world to fill them?

The CHAIRMAN. There are figures showing the transactions on Chicago alone.

Senator KENYON. And what was the percentage?

The CHAIRMAN. I have forgotten the percentage.

Senator NORBECK. The statement was made that it was 28 bushels to 10,000.

Senator CAPPER. Yes.

The CHAIRMAN. That there was 33 times as much bought and sold on the board of trade at Chicago alone as there is wheat in the world.

Senator SMITH. You must not lose sight of this fact, though, Mr. Chairman, that for every buyer there is a seller. Now, leaving out the moral question entirely, just eliminating any question of business morality that may inhere in it, the question is, as there has to be a seller for every purchaser, does that tremendous fictitious purchase and sale affect the market disastrously or not? Now, all of us know that it is easier to go down hill than it is to go up hill, and it might be easier to depress a market than to bull a market, and if we are going to take up the question of the effect on the price of the grain, then we must address ourselves to getting the facts to know whether or not this buying and selling, without expecting, as Senator Kenyon has properly used the word, or intending to demand delivery or make delivery, that affects the market disastrously or otherwise?

Mr. VAN DUSEN. Possibly an answer to your question, Senator, might be to refer to what a witness stated to your committee a couple of days ago, that owing to the small volume of trade at times in the market this past winter, or the past season, it had been impossible to promptly and properly hedge either purchases or sales of wheat, and that the execution of an order of as small an amount as 10,000 bushels of wheat has at times taken as long as 10 minutes, with a fluctuation of several cents in price. There can be only one effect of that condition, and that is to widen the margin between the producer and the consumer.

Senator SMITH. Have you ever seen any evidence that the members of the exchange ever indulge in what is called "wash" sales?

Mr. VAN DUSEN. I do not know what you mean.

Senator SMITH. A "wash" sale.

Mr. VAN DUSEN. I do not know what you mean by that.

Senator SMITH. I am surprised. Are you a member of the board of trade?

Mr. VAN DUSEN. Yes, sir.

The CHAIRMAN. Senator, I think "wash" sales are only in localities where they can be sold, and they do not do that.

Senator SMITH. Then you had better get somebody else to interrogate the witness.

The CHAIRMAN. That is what the witness says.

Senator SMITH. Here is a man who is in the speculative grain market and he does not know what a "wash" sale is. We have them in the cotton market.

Mr. VAN DUSEN. I do not know anything about cotton.

Senator SMITH. What is known as a "wash" sale is this: We are going to raid the market and we prepare ourselves for my brokers to sell to your brokers, and your brokers to sell to B's brokers, and B's brokers to sell to C's brokers. The market is going down and somebody has lost ostensibly, but we go around to the clearing house to-night and we will wash the slate.

Mr. VAN DUSEN. There is no such thing as that in the grain business.

Senator SMITH. I am surprised to hear that you had never heard of a "wash" sale.

Senator KENDRICK. Mr. Van Dusen, do you agree that any volume of purchases by one individual or corporation of sufficient quantity and intended to affect the market, by raising it or lowering it is detrimental to the trade?

Mr. VAN DUSEN. I think any manipulation of prices is detrimental to the best interests of the trade.

Senator KENDRICK. That would be clearly intended as a manipulation, the case I have suggested, where the purchase was made in sufficient volume to affect the price by lowering it or raising it; you agree that that is an abuse?

Mr. VAN DUSEN. Any manipulation of the market I think, is an abuse.

Senator KENDRICK. Does the exchange, as it is now conducted take any steps at any time, or exercise any direct influence toward preventing that sort of thing?

Mr. VAN DUSEN. They have passed rules to prevent that very condition, and in the case of our own market I do not recall that we ever had a manipulation of the market.

Senator KENDRICK. In Chicago?

Mr. VAN DUSEN. In Minneapolis.

Senator KENDRICK. Oh, yes. Now, I have one more question; do you believe that the volume of the trade done under well understood principles of buying and selling has any detrimental effect upon the interests of either the producer or the consumer of the grain?

Mr. VAN DUSEN. No. I think quite to the contrary. I think it benefits both the producer and the consumer.

Senator KENDRICK. And the consumer?

Mr. VAN DUSEN. Yes.

Senator KENDRICK. It benefits them to the extent of furnishing a ready market and an opportunity to take advantage of the situation in selling or buying to protect against loss? That is the benefit that you think they get?

Mr. VAN DUSEN. That narrows the margin.

Senator KENDRICK. Yes.

Mr. VAN DUSEN. That has to be taken on the grain.

Senator KENDRICK. You say you have not had in your market any of the particular kind of abuses which would be called manipulation?

Mr. VAN DUSEN. I do not recall that we have ever had a manipulated market.

Senator NORBECK. Let me ask you one question, Mr. Van Dusen. Is that more likely to happen in the more central markets, where the volume of business is larger?

Mr. VAN DUSEN. That may possibly be, although our volume is quite large there.

Senator CAPPER. Is there any business done in puts and calls on your board of trade?

Mr. VAN DUSEN. Not recognized by the board of trade.

Senator CAPPER. Well, is there any business of that kind transacted around there in Minneapolis?

Mr. VAN DUSEN. Yes; there is trading in privileges outside of the exchange room, but they are not recognized by the exchange, however.

Senator CAPPER. Do any of the members of the Minneapolis Board of Trade do that; do they take any orders in puts and calls?

Mr. VAN DUSEN. I presume they do. I am not sure as to that, however.

Senator CAPPER. You would not defend puts and calls?

Mr. VAN DUSEN. There is quite a difference of opinion on that. Some people claim that it adds volume to the trading, and therefore makes the market more liquid and is desirable. On the other hand, I think that is one of the abuses, and possibly the disadvantages will outweigh the advantages. Personally, I would not uphold trading in puts and calls.

Senator SMITH. To what extent is that indulged in?

Mr. VAN DUSEN. To a very limited extent.

The CHAIRMAN. All right; you may go ahead with the discussion of the bill, Mr. Van Dusen.

Mr. VAN DUSEN. In a general way I have stated what I thought the effect of this bill would be if passed in its present form.

Mr. McDermott suggested an amendment to section 2 yesterday, which it seems to me would improve that situation, which included in it the elimination from taxing of any cash grain that might be sold for deferred shipment. I think he suggested that it be inserted after the word "sorghum." I have not the exact wording, but I think that would be an improvement in that clause.

The CHAIRMAN. His amendment was to insert the words right after the word "sorghum," in line 11:

The words "future delivery" shall not be held to include any sale of cash grain for deferred shipment.

Mr. VAN DUSEN. That is right. I think that will improve that paragraph.

He also suggested, as I understood him, in section 4 to eliminate the words "made at, on, or in any exchange, board of trade, or similar institution or place of business."

That might possibility clear up that paragraph a little.

In a general way, the next feature that we come to is this question of reports. I think if the Secretary of Agriculture was authorized to and did request complete reports, as is provided for under the terms of this bill as I read it, it would be a very great hardship on those engaged in the business and would accomplish no good purpose. I can not see anything to be gained by it.

Senator SMITH. What paragraph is that that you are referring to?

Mr. VAN DUSEN. Section 5.

The CHAIRMAN. That is in section 5, Senator.

Mr. VAN DUSEN. Yes.

The CHAIRMAN. Mr. Van Dusen, I was impressed with the objection, and I suggested before, and I want to suggest the same thing to you, that I do not see how it can be avoided. If we are going to have any reports, and if we are going to find anything out about how these boards of trade are conducted, we must have reports. Now, I would like to have you suggest how we can retain in the bill

the necessary substance that will give that information to the proper officials, and not make it burdensome?

Mr. VAN DUSEN. In the first place, my thought is that all transactions of every kind and description, whether it be on a terminal market or in the country, there is a record of, and everyone who is a party to those trades has a complete record in his office or wherever the records are kept, of all of the transactions.

Senator CAPPER. That being true, Mr. Van Dusen, how does this become burdensome?

Mr. VAN DUSEN. Because they are asked to make that report.

Senator CAPPER. Well, you have the reports there?

Mr. VAN DUSEN. We have the records there, the original records, and those records might be available and open to the Secretary of Agriculture, or to whomever the authority might be designated, in case it whould be necessary, but to have a complete report made——

Senator CAPPER. You are required to make a report to the Internal Revenue Department, are you not?

Mr. VAN DUSEN. On future trading only.

Senator CAPPER. On future trading only?

Mr. VAN DUSEN. Yes, sir; those reports are here, and if they are available I do not see any necessity for duplicating them.

The CHAIRMAN. The idea comes to me, Mr. Van Dusen, if we lessened this authority that is provided in that particular section given to the Secretary of Agriculture, it may make it impossible for him to get proper information sometimes. I do not expect that the Secretary of Agriculture, even if he were given that authority, would call for everything. I do not expect that he would do that unless he was making an investigation and finds out that some certain thing is necessary to complete his investigation. That may be important in that event. Now, we must give him authority to get it. How can we give him that authority by making it less comprehensive than it is in the bill?

Mr. VAN DUSEN. My thought on that is that the best place in the world for him to get it is right on the books of the company at the home office. As I read this, anyone who is a member of an exchange operating in the country would have to make a complete report of all country operations. In our section of the country and tributary to Minneapolis and at times Duluth there are, I think, something like 5,600 country elevators. If those elevators were required to make a report to Washington of every transaction they make it would be very cumbersome.

The CHAIRMAN. Yes.

Mr. VAN DUSEN. And it would involve a great deal of detailed office work, which, it seems to me, is unnecessary entirely.

The CHAIRMAN. Yes; I agree with you on that, but it is not going to be necessary to do that unless the Secretary of Agriculture calls for it.

Mr. VAN DUSEN. No; but it is in the bill.

The CHAIRMAN. Yes; I know that he will have that authority.

Mr. VAN DUSEN. There is the danger of it.

The CHAIRMAN. I can easily conceive how the Secretary might, in hunting down something that, in his judgment, was wrong, would want to get evidence of some practice that was dishonest or unfair,

and he would call for certain information in order to carry on his investigation. Now, if he did not have authority to do that he could not get the information, and having that authority, if he was a man who wanted to be mean, I guess he could abuse it a great deal. I would like to prevent that abuse, if I can, but I would not want to take away from him complete authority to go to the bottom of anything that he wanted to investigate. In other words, he could not go and make a good investigation unless he had that authority.

Mr. VAN DUSEN. I quite agree with you on that, but, as I view this matter, this is a bill directed at trading in futures upon grain exchanges. There are reports, as Senator Capper has stated, that are made to the Internal Revenue Department here by the exchanges of all future trades. Why could not those same reports be made use of?

The CHAIRMAN. I anticipate the Secretary to the extent that he could use them. I think he would.

Mr. VAN DUSEN. I think so.

The CHAIRMAN. And he would not require duplicates or anything of that kind, but if you confined him to that, and he got into some investigation and wanted to go outside of that, he has to have authority to do it, it seems to me.

Mr. VAN DUSEN. Well, I do not want to be misunderstood; in so far as the Secretary of Agriculture is concerned, I believe if he were called upon to administer this bill he would be very reasonable. I do not believe that he would place upon the trade any unnecessary burden.

The CHAIRMAN. Then, what is the fear?

Mr. VAN DUSEN. But, as was stated yesterday by Senator Reed here, he expressed the fear that the details of this bill might not be administered by the Secretary himself. They might be left very largely to his subordinates.

The CHAIRMAN. Of course, we all recognize that that is going to be true, but it will be under his general supervision and direction, and I can easily conceive how a Secretary or some one under him who wanted to see how much trouble he could make, could make a whole lot of trouble. I would like to avoid that if I could, but I do not know how to avoid that. Somebody must have this authority.

Mr. VAN DUSEN. Well, if it is thought best to have a report sent to the Secretary of Agriculture, covering the transactions in futures, it seems to me that might be made by the Clearing House Association, where all future trades are reported and where a complete record is made, but I can not conceive that there is any necessity at all for having full reports on cash transactions, because nobody is going to manipulate a market by buying wheat or selling wheat or buying or selling coarse grain or accumulating a large line of either one; certainly not in the country, and if at the terminals it would be the easiest matter in the world to locate it.

Senator LADD. You have all of that record available; it is on your books, is it not, Mr. Van Dusen?

Mr. VAN DUSEN. Every part of it. I think if the books were available the matter could be located very quickly.

The CHAIRMAN. Your idea, then, is that instead of giving them authority to call on you, we should give them authority to examine your books?

Mr. VAN DUSEN. Unless you want a report of the future trading. That is a matter that could be more easily reported and arrived at in the way I have indicated.

The CHAIRMAN. All right.

Mr. VAN DUSEN. Reports from the individuals, if necessary.

Senator LADD. But, so far as the reports on cash grain are concerned, it would not be any different than what your elevators do in South Dakota, would it?

Mr. VAN DUSEN. No; it would not be different at all, Senator, except it would be a duplication of work.

Senator LADD. Yes; they would have to make another copy.

Mr. VAN DUSEN. But I myself can not see anything that can be gained by duplicating all of that detailed country work.

Senator LADD. No; that may be.

Mr. VAN DUSEN. And sending the reports to Washington.

Senator LADD. Yes; I am not sure that the Secretary would ask for records of that kind.

Mr. VAN DUSEN. Possibly not.

Senator LADD. Except as it may become necessary in an investigation.

Mr. VAN DUSEN. Possibly not, but while you might give him all the authority to investigate that was necessary, it seems to me to require itemized reports of every transaction in the business would be very burdensome.

Senator LADD. I can see how it would mean a great deal of work.

The CHAIRMAN. I do not think it is contemplated that anybody is going to be called on to make an itemized report of everything you do.

Mr. VAN DUSEN. Possibly not.

The CHAIRMAN. Although, to be technical about it, the authority is here to demand it.

Mr. VAN DUSEN. That is just my point. It can be called for.

The CHAIRMAN. Yes; it can be.

Mr. VAN DUSEN. Yes; and if it is necessary, as it might be in the case of trading in futures, then it is perfectly proper and right for him to have the authority to investigate and, if necessary, have the reports, but I can not see how it is to apply or would further any good end by applying to the cash grain end of the business. In the Minneapolis market is it not unusual for a thousand carloads of grain to be received on a single day, all sold and disposed of. What possible good could come of being obliged to duplicate the office work and to send the report here, showing every transaction?

The next point that occurs to me is on the question of the reasonable limitation of the amount of grain that any one dealer could own or could trade in or have open trades to cover.

It seems to me that that is a matter that might better be left to the exchanges themselves, to regulate; if there is any abuse, and they are not properly regulating that feature, then allow the Secretary of Agriculture or whoever is to administer this, to take the matter up with the officers.

Senator LADD. That is, you would, as I understand you, leave it to the board of trade to regulate that, but with supervisory power upon the part of the Secretary of Agriculture?

Mr. VAN DUSEN. That would be my idea. I think to place a definite limitation on the open trade of any concern or individual at one time would be a very unwise provision.

Senator LADD. You mean that it would differ in different markets; it would not be uniform?

Mr. VAN DUSEN. It would not be uniform and it would differ at different times in any one market.

Senator LADD. Yes.

Senator KENDRICK. Mr. Van Dusen, would it not be entirely wise to leave that in shape in the bill so that the Secretary of Agriculture could, acting through the advice of the board of trade, take action where such action was necessary?

Mr. VAN DUSEN. I think so, and I think you would find, Senator, that the Secretary of Agriculture would find that any of these exchanges would gladly and willingly cooperate with him at any time, on that feature or any other feature of the law.

In paragraph (e) of section 5——

Senator KENDRICK. It seems to me, if I may interrupt you there——

Mr. VAN DUSEN. Yes, sir.

Senator KENDRICK. That it is reasonable to suppose, when this bill is made a factor and becomes a law, that there will be sympathetic cooperation between the Secretary of Agriculture and the regularly elected officials of the board of trade. In that event there could be the very best results obtained if there were no arbitrary restrictions to prevent them from cooperating and getting results.

Mr. VAN DUSEN. I think you are perfectly justified in that feeling Senator, and if I may refer to the period when we were in the war, it has been stated many times by Mr. Hoover that there was no business in the country that was so ready and willing to cooperate with the Government as the grain business.

As to this paragraph (e), section 5, referring to the admission of cooperative associations, you understand, I am quite sure, that there has never been any objection to the admitting of cooperative companies to these exchanges excepting in the one respect of their distribution to their members of their profits. The reason that has been so has been that it might and very likely would work an injustice not only to those that are already engaged in the trade at the terminals, but it would have the same effect in the country. They would have an advantage over their competitors which they might use in ways that might not be for the best interests.

Senator CAPPER. If they were restricted in the division of their profits to members, do you think that they would still have an advantage over competitors?

Mr. VAN DUSEN. If admitted at all, it seems to me that they should be admitted on that basis, and Senator Norbeck made a suggestion on that yesterday, in that paragraph, beginning with the word "Provided," which was in effect that these cooperative associations should be admitted if permitted to distribute their earnings only among their own members.

The CHAIRMAN. I think that is the practice now.

Mr. VAN DUSEN. I do not think it is always the practice.

Senator NORBECK. There are some exceptions. They distribute half to outside members, and then they sort of take them into the association at the time they distribute it.

Senator LADD. That is not the general practice, however, Mr. Van Dusen.

Mr. VAN DUSEN. I do not know as to its being the general practice, but I think it is done in some cases. I am quite sure it is, and that works an injustice to the country dealer.

The CHAIRMAN. It seems to me that if that is done the result is it is unfair competition on the fellows in the board of trade, because it would be practically an agreement between the agent and principal that if he would ship his grain to this particular man, he would divide his commissions with him.

Mr. VAN DUSEN. Yes, sir; it would not only work against the terminal man, but I think it would be——

The CHAIRMAN. I do not see that there is any danger from that point, from being prohibited, but I have not been able to see, and do not see yet any reason why these people should not be admitted to the exchange and divide the profits among their own members just as they see fit.

Mr. VAN DUSEN. In the first place, if admitted to membership, they should be obliged to comply with all the requirements that any applicant has to comply with.

The CHAIRMAN. Suppose we had a requirement that prohibited that, you would keep them out?

Mr. VAN DUSEN. I do not know that I get your question.

The CHAIRMAN. Well, they should comply with all the rules and regulations, of course, the same as everybody else?

Mr. VAN DUSEN. Yes.

The CHAIRMAN. But you could easily make a rule or regulation, if you do not have one now, that would prohibit them from disposing of their profits in the way that they want to dispose of them, and, of course, if you had that kind of a requirement they could not conform to it, unless they were to change their articles of incorporation.

Senator NORBECK. The terms of our bill protect them. It says such regulations as are approved by the Secretary of Agriculture.

The CHAIRMAN. Yes.

Mr. VAN DUSEN. My point was not only that they must comply with the rules when once in, but they should be required to pass the same examination before becoming members that any applicant is required to pass.

The CHAIRMAN. Oh, yes.

Mr. VAN DUSEN. This bill only mentions financial responsibility. A man's general business integrity and history are quite a part of the qualification for examination that a member must have before he is admitted to any of these exchanges, and there should be no exception to that in the case of the cooperative companies.

Senator NORBECK. Let me ask you one question there, Mr. Van Dusen. How does the exchange handle that matter when a new man comes in and rents a seat on the board of trade for 30 days or for 6 months?

Mr. VAN DUSEN. That is not the practice in our market.

Senator NORBECK. But it seems to be the practice in a good many markets?

Mr. VAN DUSEN. I judge that is the practice in some markets.

Senator NORBECK. In that case the only question that is passed upon is his financial responsibility, is it not?

Mr. VAN DUSEN. No; he must pass the same examination that I speak of.

Senator NORBECK. Even though he rents a seat for 30 days?

Mr. VAN DUSEN. Well, a man can not trade on the exchange without having a membership.

Senator NORBECK. And that membership is the question of approval by the directing board; is not that it?

Mr. VAN DUSEN. Yes, sir.

Senator NORBECK. Or is it just the question of a fee?

Mr. VAN DUSEN. A fee?

Senator NORBECK. Yes.

Mr. VAN DUSEN. Well, there is a transfer fee of $15, but before being admitted to membership, as he would be in any case, he must answer these questions satisfactorily to the membership committee.

As to the cooperative feature of it, I think mention was made here yesterday that half a dozen men might get together and organize a cooperative company. That would not be, as I view it, the spirit of what would be intended by this, nor would it be, as the term is generally used, a strictly cooperative company.

The CHAIRMAN. Well, they could not be admitted under this, as I understand it?

Mr. VAN DUSEN. I do not mean, so far as being admitted is concerned, but so far as the disposition of its earnings is concerned. In other words, a few men could get together and organize a cooperative company and go into the country and do a general country elevator business, and then distribute their earnings amongst their patrons.

Senator LADD. That would be, under most of the laws, a cooperative company, would it not?

Mr. VAN DUSEN. I do not think so.

Senator LADD. It would not, under the North Dakota laws, I am sure.

Mr. VAN DUSEN. No; I would not call them so.

Senator LADD. We have many in North Dakota that presume to call themselves so that really are not. We divide them into three groups.

Mr. VAN DUSEN. Another feature of this bill which seems to me to be very dangerous is where the Secretary of Agriculture has the authority to revoke the license and the designation of any board of trade as a contract market. Should that be done, I can not conceive of the demoralization that would result and the great injustice that would follow. There is no doubt but what there are a great many millions of dollars of open contracts, unfulfilled trades, and it seems to me as though there would be such a business demoralization as to extend—I can not conceive how far.

Senator CAPPER. What sort of a penalty would you suggest for a violation of the law?

Mr. VAN DUSEN. It seems to me, if there is any violation of the law, it must be on the part of an individual. Exchanges are only meeting places for members to use the facilities that are afforded them for making trades. Therefore, if there is any offense committed it would be committed by some individual, and he is the man that should be reached and punished.

The CHAIRMAN. Now, one way to punish him if he has committed some crime—the only way to punish him would be through the board itself? We would have to get after the board after all, would we not?

Mr. VAN DUSEN. Possibly some way in this legislation could be provided for punishing the individual.

The CHAIRMAN. Well, he would have to be punished by the board, the organization.

Mr. VAN DUSEN. The board of which he is a member could expel him, of course.

The CHAIRMAN. Yes; but there must be some way, if we are going to regulate it at all, in which the board could be compelled to act. I take it that that is really the object of this provision. Things that he might do which would be objectionable would, in itself, be no crime, perhaps; there would be nothing for which he could be punished as a matter of law, but this board could put him out of the organization if they wanted to.

Mr. VAN DUSEN. Yes, sir; and I think the board would.

Senator NORBECK. And if they were unwilling to do that the Secretary of Agriculture would have a club over them.

The CHAIRMAN. He could suspend them?

Senator NORBECK. Yes. It seems that there is some real danger on this score. The board claims that they have plenty of power to compel their members to do business right.

Mr. VAN DUSEN. And the penalty is expulsion from the board?

Senator NORBECK. Yes.

Mr. VAN DUSEN. That is as far as they can go?

Senator NORBECK. Yes; and that is quite a factor.

Mr. VAN DUSEN. It is.

Senator NORBECK. And if the board should fail or refuse to do that, then the exchange certainly would be liable for the failure of the board to act.

Mr. VAN DUSEN. Certainly no exchange would object to expelling any member who would be found guilty of a violation such as was in the mind of the man who drew this bill, and I think any of the exchanges are quite as anxious to destroy the manipulator as the Secretary of Agriculture or anyone else would be.

Senator LADD. We have those provisions in lines 22 and 23 there, only after hearing by the officers and their refusal, I think.

Mr. VAN DUSEN. The very intimation or suggestion that any exchange is likely to have its license revoked and be put out of business by a governmental agency would be a very serious matter.

Senator LADD. Yes; that is very true.

Mr. VAN DUSEN. Another provision in the bill which it seems to me would be dangerous is the placing of so much authority in any one individual's hands, or in any one department. I think that would be better if it could be placed in the hands of two or three departments, as has been suggested here.

The CHAIRMAN. A board of some kind?

Mr. VAN DUSEN. Yes; or a board of some kind.

The CHAIRMAN. Of course, Mr. Van Dusen, you probably do not appreciate it like the Members of Congress do, because you have not had to face it, like we have to do; but there is a growing sentiment, I think, in both branches of Congress to avoid the establishment of a lot of new bureaus and boards. It is expensive, and in a great many ways it is unsatisfactory. Whenever you start out in Congress to get a new board or organize a new bureau, you run against that

sentiment, and I think most of us share in it, that we probably have gone too far, and we should try to utilize, as much as we can, the present governmental agencies rather than to establish a new one.

Mr. VAN DUSEN. Well, the part I would refer to especially would be in case there should be any seeming violation on the part of an exchange or an individual to have this court, if you please, sit on the proposition, not with the idea that these men, who are all busy men, should be asked to handle all of this detail. As far as the Secretary of Agriculture is concerned, if his duties under any bill that might pass were supervisory rather than that he be given absolute control, I think it would be much better.

Senator NORBECK. Mr. Van Dusen, this committee has just been through this experience: After long hearings on the so-called packer legislation bills, the committee was persuaded to change its mind from a commission to a single individual, and that request came mainly from the business interests that might be affected by it, asking us that it be placed under one head instead of a board. Now, here come the same men who want just the opposite.

Senator KENDRICK. If you will pardon me, I think a Senator who has not been here during the time of our hearings should be informed of the fact that the witnesses who came in opposition to the legislation originally said that they would not object to a commission. The original bill provided for supervision by the Secretary of Agriculture, and it was something like this is, and the witnesses in opposition to the bill manifested a strongly favorable attitude toward a commission in case there was to be any legislation at all. Therefore the change was made through deference to that repeated statement that they would not object to that kind of a governing board, so the change was made largely at their suggestion.

Senator NORBECK. A change from the previous bill?

Senator KENDRICK. From the Secretary of Agriculture to a commission. They insisted that they were afraid of the one-man arbitrary power. Witness after witness testified along that line. The change was made, as I said before, through a disposition to do the thing that ought to be done. There was an apparent disposition on the part of those who represented the opposition to go back to the one man when final action was taken, and that was what was done, and that is in the bill as it stands to-day. The bill as it passed the House day before yesterday places the thing under the Secretary of Agriculture. Our bill in the Senate places it under the Secretary of Agriculture to be administered by a commissioner of live stock.

Mr. VAN DUSEN. There is one more statement that I wish to make, and that is in the Minneapolis exchange there never has been any rule that would prevent the admission of either cooperatively owned and managed organizations or farmers' elevator companies.

Senator CAPPER. Have you any cooperative or farmer elevators on that board?

Mr. VAN DUSEN. We have two farmers' elevator organizations who are members of our exchange.

Senator LADD. Those are not cooperative?

Mr. VAN DUSEN. They are not cooperative, but they are admitted as any other applicants are admitted and comply with the rules as any other member does.

Senator LADD. There have been no cooperatives admitted, though, have there?

Mr. VAN DUSEN. No, sir; not that I know of.

The CHAIRMAN. Is that all, Mr. Van Dusen?

Mr. VAN DUSEN. Yes; I wish to thank you for your attention.

Senator KENDRICK. Mr. Chairman, I would like to ask Mr. Van Dusen one further question.

Is it not your opinion that any danger arising out of this bill in the way of adverse influences on the exchange might prove to be almost entirely apprehensive, and do you not think that the exchanges might find that supervision on the part of a Government official would bring a more wholesome atmosphere to the situation?

Mr. VAN DUSEN. That might be the case.

Senator KENDRICK. And more general confidence in the operations of the exchanges?

Mr. VAN DUSEN. To confer as broad an authority as is conferred in this bill as it is drawn would be a very dangerous experiment.

Senator KENDRICK. In your judgment, if the bill is drawn in moderation, it might prove extremely helpful to the business.

Mr. VAN DUSEN. Personally I do not think any legislation is necessary or required. However, if in the judgment of you men you feel as though some bill should be passed, I think great care should be taken to not make that bill so drastic as to hazard the operations of the exchanges along the line that they are now being operated.

Senator KENDRICK. I think we all agree with that, Mr. Van Dusen. But, on the other hand, I want to ask you this question, if you do not consider it an unfortunate situation that a great market like that of which you are a part is to be under a constant cloud of suspicion from the men who furnish the product for that market?

Mr. VAN DUSEN. I think a great deal of this feeling is propaganda, and it is not justified. It has not been combatted by the exchange. They have not spent money going out and denying these things. Possibly they should be criticized because they have not, but I think the agitation that has extended throughout a large part of the country is, to quite an extent, political and unjustified.

Senator KENDRICK. Mr. Van Dusen, do you not agree to the fact that this criticism of the operations of our grain exchanges that extended over long period of time were, we might say, waves that have subsided and then have arisen again, as to the opposition of the methods of the exchange?

Mr. VAN DUSEN. Undoubtedly. That is through ignorance, however, to a very large extent.

Senator KENDRICK. That is the point exactly. Don't you consider that it is quite possible that it might happen under supervision by the Government, that an agency set up here that speaks for all and speaks for the integrity of the transactions might benefit that exchange or that board of trade, just by the mere fact that it discloses the workings of the exchange and shows that there are no unfair dealings?

Mr. VAN DUSEN. That is very possible, but I want to repeat and emphasize again that in the drafting of such a bill great care should be used.

Senator KENDRICK. Yes, sir; I agree with that.

Mr. VAN DUSEN. I thank you very much, gentlemen.

The CHAIRMAN. We are very much obliged to you.

STATEMENT OF MR. S. P. ARNOT, OF CHICAGO, COMMISSION MERCHANT ON THE CHICAGO BOARD OF TRADE.

Mr. ARNOT. I wish it understood, Mr. Chairman, that I am not testifying officially for the Chicago Board of Trade. I am simply here as a member and commission man on the Chicago Board of Trade.

The first thing, gentlemen, that I wish to say is that I object to this bill. The chief reason is the fact, as you have been advised, of course, that in our legislature at Springfield a bill has passed the senate and is now pending in the house, known as the Lantz bill, No. 283, which, if it becomes law, places the control of the Chicago Board of Trade in the hands of what is known in our State, under the present law, as the director of agriculture. He is given large powers to supervise the board and virtually controls us.

We do not know whether this bill will be passed or not, but for the sake of argument let us suppose that the bill passes the legislature and becomes a law, and the bill before us passes and becomes a law. We will then be in the position of being under the direction of the Secretary of Agriculture of the Federal Government and the director of agriculture of the State of Illinois. In each instance these gentlemen are given the power to establish regulations governing our business, and it is easily conceivable, not only conceivable but it is likely, that there will be no coordination in the formulation of these regulations, and that some regulation as established by the Secretary of Agriculture in Washington would forbid us doing a certain thing, and some regulation established by the director of agriculture of Illinois would demand that we do that very thing.

Now, gentlemen, the only hopeful thing in that situation is that we would have our choice as to the man who would perform the execution.

The CHAIRMAN. I suppose that would be a very valuable asset.

Mr. ARNOT. I would like it because I would rather have it done nationally. It would lend a little more dignity to the occasion.

The CHAIRMAN. We will try not to change the bill so as to take that part of it away from you.

Mr. ARNOT. Well, that is a gratification. This is serious, however, as it would be a division of power or control over us.

Now, we hope that bill will not pass. It has passed the Senate and is pending in the House, where action has been postponed until next week.

There is not much use in going any further, as you gentlemen know the law better than I could ever hope to, but that is an impossible situation.

Senator KENDRICK. Mr. Arnot, do you not believe that the enactment of legislation of this kind would probably discourage and make unnecessary the bill proposed by your State legislature?

Mr. ARNOT. If that bill ever passes it will pass before you act on this bill. It will pass next week or it never will pass this session, and it is almost a certainty that you will not get action on this bill by that time.

Senator NORBECK. No; but don't you think the very fact that this bill has passed the House of Representatives here will retard those people from pushing it through the Illinois Legislature?

Mr. ARNOT. It has passed the Senate, and you know how people like to exercise their power, and those men feel unquestionably that it is their right to control a market that is within the borders of their State.

Senator KENDRICK. I understood you to be speaking seriously when you said you would prefer Federal supervision to State supervision.

Mr. ARNOT. Yes, sir; I was serious when I said that.

Senator KENDRICK. Do you believe that reasonable legislation would prove altogether detrimental to your exchange?

Mr. ARNOT. No, sir; I would not make that statement now. I believe if conditions could be worked out satisfactorily it might not, but if it should subsequently develop that we could get State control, Mr. Chairman, I say I would prefer Federal control, because of the fact that if Federal control will eliminate State control we will have uniformity in our markets, which is very desirable, as far as it can be accomplished. Conditions are different in different markets, and all the rules and regulations and practices can not be uniform, but as far as possible that would be a great advantage, not only to the grain men, but to the producer, to have as uniform rules as possible in markets throughout the entire country.

Senator KENDRICK. Because of the interstate character of many of the dealings on your board of trade, would it not be practically impossible for the State authorities to properly supervise your market?

Mr. ARNOT. Illinois is a big agricultural State, and we have a tremendous business that is strictly intrastate.

Senator KENDRICK. Yes.

Mr. ARNOT. But we would have endless confusion, absolutely demoralizing, if they attempted to control the grain that originated in Illinois and the Federal authorities attempted to control the grain that was interstate and came into the Chicago market from other States.

Senator KENDRICK. Your market handles the grain of several States, from the grain-producing States around you?

Mr. ARNOT. When there is a lot of grain to sell, our market is the big, the absorbing market.

Senator KENDRICK. The largest in the country?

Mr. ARNOT. The grain comes there from Omaha, Kansas City, St. Louis, and other terminal markets, at times, because that market does business when they are filled up. Chicago is the last resort, a place that can finance large quantities, and is the final reservoir for grain when these other markets are filled.

Senator KENDRICK. Your market is the largest in the country, is it not?

Mr. ARNOT. The largest in the world.

Senator KENDRICK. Nearly all of the Chicago people admit those things?

Mr. ARNOT. Yes, sir; we admit it.

I do not wish to offer any further opposition to the passage of a bill. That seems to be enough. It is a serious matter, and I hope the members of the committee will give it serious consideration. If you pass this bill now and the legislature fails to pass their bill this

session, we will have a regulatory law here and we have no way of knowing that they may not pass a law at the next session of our legislature of a similar character.

Senator KENDRICK. Have you finished your discussion of the bill?

Mr. ARNOT. Yes; I have finished with my objections to the bill.

Senator KENDRICK. Have you any suggestions, Mr. Arnot, as to the changes that you would like to see made in the bill, while you are on the stand?

Mr. ARNOT. This may be an objection to the bill, or you may consider it as a suggestion of a change.

I am in hearty sympathy with the efforts of the producers of grain to get as full returns for that grain as they possibly can secure.

Senator KENDRICK. Yes.

Mr. ARNOT. I believe, however, their efforts should be directed in a fair, equitable and competitive way. I have no objection to any man becoming a member of our exchange, and conforming to the general rules of the exchange, but I do believe that we have built up a market; I have been on the board for more than 20 years, and many other men have been there longer, and while I welcome the farmers' organization or any farmer or any other man who has a clean character and is financially responsible for his obligations becoming a member of that exchange, I do not believe that they should ask to come and crawl into our wagon and ride with us unless they are willing to subject themselves to the same regulations that we observe.

Senator LADD. That would mean, then, that you would have to advise them to build up alongside of you another organization?

Mr. ARNOT. I see no objection to their doing that. If they can devise a system which is more economical it will only be a short time until they can get all the business, and put us out, anyhow; but I believe it is giving rights to certain classes of people to become members of organizations which have long been in existence that we do not grant to ourselves.

Now, if I may explain here something that has not been brought up since I have been here, I will say that every member of every firm who does business on the Chicago Board of Trade—by that I mean is a member of our clearing house—must be a member of the board of trade. Incidentally, I want to say that memberships are never rented and are only issued to people who have been investigated as to their character, commercial standing—not necessarily rich or anything of that kind—but that they are clean business men. Every member of every firm must be a member of the board of trade and own a membership, and, to that extent at least, he is financially responsible.

Senator NORBECK. Do I understand from that, Mr. Arnot, that you do not object to cooperative associations holding memberships, or that you do?

Mr. ARNOT. I certainly do not, but if you will let me go a little further, I will say that in the matter of corporations our rules provide that one executive officer of a regularly formed corporation must be a member of the board of trade in order that they may have the advantage of our clearing house.

A few times on the board of trade—I do not think it has occurred very frequently—members have attempted to avoid our rules in this

way; we will say a man doing business at Des Moines, Iowa, doing a heavy hedging business, and consigning to our market, joins the board of trade for the advantages it gives him in the way of commissions. He becomes a member. In a few instances, this same man has bought an interest of maybe one share of stock in a corporation in Kansas City or in some smaller town and become an executive officer, secretary, or treasurer, or something like that, or maybe president or vice president. Thereby he would attempt to secure the advantages of what we call members' rates for several firms with the ownership of one membership. Whenever that has been found it has been stopped. They have been checked at once, and they are denied those privileges for the other firms. Twice in my own experience I was asked to grant membership rates to firms having an executive officer who ran a business of his own and secured half rate commissions on that and was trying to secure half rate commissions for these other firms. I refused and acquainted the authorities with the facts in the case, and it was stopped.

That rule has always been enforced, and you can see without any doubt what it means.

If the farmers' cooperative association reaches its desired end it will have all of the producers in the country in it. There will not be any business outside of that, but as long as we go along on the present plan of operating the exchanges we must compel the members who enjoy the privileges of the exchange to contribute to its support, and they must show their financial responsibility by the ownership of a seat on that exchange, for our protection.

If we should upset all of our present plans and turn them all loose that way, there is nothing, gentlemen, to prevent me from going out and forming a corporation in Chicago and going out after the business of the grain people over the country and selling each man $100 worth of stock in the corporation, making them officers, if necessary in the corporation, and handle all of the business that they have for half commissions. That would put the other man out of business.

Senator NORBECK. I for one do not get clearly, Mr. Arnot, the point in your argument. Therefore, let me ask you a few more questions.

Mr. ARNOT. Certainly.

Senator NORBECK. You say you do not object to cooperative organizations as such holding seats on the board of trade if they comply with the same rules and requirements that other members do. Does that mean, for instance, an association like we have in our State of some 800 or 1,000 elevators, cooperative elevators, you would not object to that organization as such holding a seat on the board of trade and doing its business there, providing its profits were distributed only to their own members?

Mr. ARNOT. If the profits were distributed—I adopt Mr. Hargis view on that proposition—if they are distributed to bona fide stockholders who have formed a corporation that has an amount of capital that would make them financially responsible, and distributed to their stockholders rather than on a patronage basis.

Senator NORBECK. You understand, of course, that in these farmers' elevators, while the members are stockholders, the division of profits is not upon the basis of the stockholding, but it is upon

the basis of business done. That would not make any difference with you, would it?

Mr. ARNOT. It would not, except by their efforts to go outside and take all of the outside business away from us.

The CHAIRMAN. Well, if they did, if all of the producers went into organizations like this, it would be perfectly legitimate, even if they put you out of business, would it not?

Mr. ARNOT. But there is no use for us to start in on a proposition of pretending to do business on the basis we are doing it now and go along and suffer a slow death. We might just as well close up.

The CHAIRMAN. I do not understand now that it is material to you how they distribute their profits.

Senator NORBECK. He means that the farmers will join these organizations for the advantage they have, and that the business would be handled through their own organizations.

The CHAIRMAN. Well, that is a perfectly legitimate thing.

Mr. ARNOT. Certainly, it is legitimate; only we do not permit it among our own members, for reasons which are obvious. Therefore it should not be permitted by others just coming in.

The CHAIRMAN. As I understand it, it is because you have a rule that prevents a member of the board of trade from getting business on a contract by which he divides his profits. Now, as I understand it, these people do not intend to do that, or if they did I would not be in favor of permitting them to do it. I can see how that would not be fair; that would not be fair competition; but I can not see how you can examine as to how they divide their profits, whether you think it is a fair or honest way or a good way. If that is a satisfactory way to them, it does not seem to me it is the business of anyone else how they divide them.

Mr. ARNOT. I think Senator Norbeck answered that question. These people can run this business if they are bona fide and honest stockholders, and returns can be made to them, instead of to the man who happens to do business by going out and getting business from the outside.

The CHAIRMAN. Well, I do not know whether we have agreed on the basis yet. I do not mean to say that these men, when they get into your organization, should be permitted to say to me, not a member of the organization, "If you ship your wheat to us we will give you half of the profits," or a third of the profits, or any other consideration. That would be detrimental and unfair and ought not to be allowed. I do not think the committee wants to allow any such thing as that, but they would have the right, if they were on the board of trade, for me to ship to them, the same as I would ship to you, if I had anything to ship, and they would have to charge me the same as you would charge me. You would not be allowed, as I understand it, in order to get my business, to say to me, "If you ship me your business I will rebate half of my commissions to you." Your rules would not permit that.

Mr. ARNOT. Our rules would not permit that; not if we hnew it.

The CHAIRMAN. But if I owned some wheat in connection with a lot of other fellows, and representing that association shipped that wheat to you and paid you a regular commission, you would not care, when you sent the remittance to me, how I divided it among my fellows?

Mr. ARNOT. Absolutely, it does not affect me, except the method of doing business does affect the outside situation with reference to us or our possibility to stay in the business.

The CHAIRMAN. Now, when it comes to staying in the business, if this thing is based on the plan that is the most economical and is a better basis than the old one, in time it will supersede the old one, will it not?

Mr. ARNOT. Absolutely, and it ought to.

The CHAIRMAN. And all of us ought to welcome the time, if so it is. If it is not it will fail.

Mr. ARNOT. But we would like a chance, if we are to have competition at all, for a reasonable breathing spell, in which they will have their opportunity to demonstrate whether they can do it more economically and if they can, well and good. I have not one word of criticism against it.

The CHAIRMAN. It seems to me we ought to differentiate, and I think you gentlemen and some of the others have not, between your organization and its business and an ordinary private person who is doing business. The exchange is a public institution?

Mr. ARNOT. It performs a public service, but it is a private organization.

The CHAIRMAN. You are performing a public service; it is a public market where, under proper rules and regulations, anybody that has anything that is handled on the exchange can get it in there for sale through the instrumentalities of your board of trade.

Mr. ARNOT. Certainly, under our rules and regulations, but it is our market. It is a public service, and it should be controlled as railroads are controlled—as a public untility.

The CHAIRMAN. Do the members pay annual dues?

Mr. ARNOT. Yes, sir.

The CHAIRMAN. How much are they in Chicago?

Mr. ARNOT. $75.

The CHAIRMAN. A year? What does the membership cost?

Mr. ARNOT. Memberships sold a short time ago for between $10,000 and $11,000. They have been down as low as $5,000 since this bill passed the House.

The CHAIRMAN. Is there any fixed amount?

Mr. ARNOT. We have no fixed amount, except for initiation.

The CHAIRMAN. That is what I mean.

Mr. ARNOT. The trade is made between the members. If I want to sell you my membership, we agree upon the price.

The CHAIRMAN. I mean supposing a new member comes in and he does not buy a membership from anybody else, how much does he have to pay for it?

Mr. ARNOT. I think it is $25,000. Am I right, Mr. Gates? Is not that the initiation?

Mr. GATES. Yes; but there never has been one.

The CHAIRMAN. Those fees and your annual dues are the things that pay the expenses of the organization and keep it going?

Mr. ARNOT. Those fees do not, because no one ever bought a membership from the board in recent years; they would not until the price of the membership reached the initiation fee, which is $25,000, and they have never sold that high.

The CHAIRMAN. Are your annual dues sufficient to pay all running expenses?

Mr. ARNOT. Yes, sir; that is all we have.

Senator NORBECK. How many members are there on the Chicago Board of Trade?

Mr. ARNOT. Between 1,600 and 1,700. I can not tell you the exact number.

Senator NORBECK. There is one point here that has never been brought out during the time that I have been present at the hearings, and that is this: A good deal of emphasis has been placed on the importance of a great deal of trading. You raised that point, that if these cooperative organizations are permitted to come in, they may eventually bring in all the grain business with them and put a lot of the grain dealers out of the trade. Would it necessarily follow that it would greatly restrict the future trading?

Mr. ARNOT. Pardon me, Senator. Did I make that statement?

Senator NORBECK. No; but the inference from your statement was, however, that those farmers' organizations would prove strong competitors if they came in, and if I understand you right, you said that that might eliminate a lot of men now on the board, because they might, in effect, have a monopoly of a great deal of the business.

Mr. ARNOT. No, sir; I am trying to say as plainly as I can that I object to our admitting anybody to membership in the organization which we have built up and which we are carrying on and give them privileges which our own members can not enjoy.

Senator KENDRICK. In other words, is not this your objection, Mr. Arnot: You object to having an organization pay an individual's expenses and enjoy a multiplied advantage?

Mr. ARNOT. That is all. We simply want an even break with everybody, and we want every member of that exchange to be subject to exactly the same rules, without distinction of class or anything else.

Senator KENDRICK. Is it your contention, Mr. Arnot, that, to a certain extent at least, every member of these cooperative organizations enjoys the same benefits of your exchange that you individually enjoy and you pay the expenses?

Mr. ARNOT. Yes, sir.

Senator KENDRICK. And maintain the exchange?

Mr. ARNOT. Yes, sir.

The CHAIRMAN. What financial responsibility is required for a membership on the board of trade?

Mr. ARNOT. They require that an applicant shall buy his membership with his own money, and they ask him what means he has. There is no fixed amount. If a young man builds himself up there in the trade and shows himself to be of good character; if he has been a clerk in the office of some one else and has demonstrated himself to be qualified, we try to help him. We do not call for anything special.

To explain further, Mr. Chairman, when an application is made it is referred to the membership committee, who take every possible pains to investigate the applicant in every way that they can to determine whether he would become a desirable member. He is questioned not only as to his financial responsibility but as to other matters, although he is not required to state anything definitely

about his business that would embarrass him. However, he is asked what he is going to do in the business—whether he is going to be connected with some established house. A great many of them do become connected with the houses where they have been working as clerks.

The CHAIRMAN. I was particularly anxious to find out, if I could, just what the financial responsibility was which is required, because that has always been one of the objections to the farmers' cooperative institutions, at least, it was always mentioned.

Mr. ARNOT. If they state that they are going to do a certain sort of business, they will be required to have the capital to make them safe people on the exchange.

The CHAIRMAN. A man might do a great deal of business on a board of trade in a perfectly legitimate way without having any financial backing, might he not?

Mr. ARNOT. As a broker, yes.

The CHAIRMAN. Yes.

Mr. ARNOT. Yes, certainly. He might act as a broker without having anything but his own membership; but if he is going to establish himself in business there they want to know whether he has some financial responsibility.

The CHAIRMAN. If you admitted these farmers' cooperative institutions, their business would be almost entirely that of a broker.

Mr. ARNOT. I doubt that. I think that would not be true very long. I was a farmer myself once. My father used to belong to the grange, and I belonged to the Farmers' Alliance out in your State once, so I know something about the farmers, and, judging from the human standpoint, I think you will find that they will want to clear their trades very soon.

The CHAIRMAN. What do you mean by that?

Mr. ARNOT. Clearing future trades. This notion that the farmers do not speculate is all nonsense.

The CHAIRMAN. That may be.

Mr. ARNOT. If they join the clearing house, they will clear all the trades for everyone in that vast corporation for half rates.

The CHAIRMAN. I had supposed, and I know it is always the point made, that it is a part of a plan by which the farmer who produces the grain wants to get all of the profit out of it, just as far as he can.

Mr. ARNOT. Certainly.

The CHAIRMAN. On its travel to the consumer, which is a perfectly legitimate ambition.

Mr. ARNOT. Absolutely.

The CHAIRMAN. If they should get on the board of trade the principal business they would have to do would be to sell on the board of trade their own product, and act as a broker for anybody else who desired to ship to them.

Mr. ARNOT. But, Mr. Chairman, what if they hedged, as you suggested, and they probably would in certain instances, if they bought the grain outright?

The CHAIRMAN. Well, I take it they would not buy grain on the board of trade. They may be selling.

Mr. ARNOT. I mean sell futures as a hedge against their cash holdings. Why should they be there doing business? Why should they

not want to join the clearing house and save that commission and perform that operation themselves?

The CHAIRMAN. Maybe they do.

Mr. ARNOT. They would be foolish if they did not.

Senator KENDRICK. Mr. Arnot, I want to ask you a question about memberships that will, perhaps, clear up to a certain extent, some of the points in reference to the cooperative association selling agencies.

Does your membership on the exchange limit in any way the number of individuals that may benefit by that; that is to say, can you be a member of the exchange and have any number of associates outside of the exchange that benefit by your seat on the exchange?

Mr. ARNOT. That is what I tried to explain before. I could not go out and bring in a lot of people to an unlimited extent and have my membership serve different houses here and there to give them members' rates of commissions.

Senator KENDRICK. Then, every member of a firm that participates in the profits of that membership must be a member of the exchange, according to your present rules?

Mr. ARNOT. Absolutely, if it is a firm, but not a corporation.

Senator KENDRICK. Now, in the case of corporations, what is the situation there?

Mr. ARNOT. As I have previously stated, the requirement is that one executive officer of the corporation shall be a member in good standing on the board of trade.

Senator KENDRICK. Yes; and his corporation may have as many stockholders as they elect.

Mr. ARNOT. Yes, sir; that is the statement I made a while ago.

Senator KENDRICK. I did not understand you.

Mr. ARNOT. They can, if these men are actually interested in the business, but they can not go out and indiscriminately pick up a lot of people for the purpose of giving part of their commissions back to them.

Senator KENDRICK. No; but there is no limit to the number of legitimate stockholders?

Mr. ARNOT. No, sir; if they are bona fide, and it does not develop that they are in it for the purpose of avoiding the commission rule. There is no limit—just a legally organized corporation.

Senator KENDRICK. Then, you would have no objection to the cooperative associations joining the exchange, provided only that they confine the participation in the benefits of that association to their legitimate stockholders?

Mr. ARNOT. No, sir; I certainly would have no objection.

Senator KENDRICK. In other words, you want to be placed on exactly the same basis?

Mr. ARNOT. I just want an equal show if they do come in. That is all I want—nothing more nor less.

Now, in the matter of this future trading, there is one thing I want to mention.

I take it that the motive back of this bill consists of two things. There is the feeling that future trading affects prices, which has inspired a lot of agitation, which may or may not have influenced you gentlemen. Then, there is this cooperative proposition which we have been talking about.

As to the question of the future trading, I want to make a few remarks, if it is permissible?

When Mr. Van Dusen was giving his testimony this morning Senator Smith, I think asked a question about marginal trading, I want you gentlemen to understand that all trading in futures is marginal trading. There is no difference. You can not make a trade in futures except on the basis of a marginal trading proposition. It does not make any difference to me whether you are a grain man or whether you are a speculator, or as some of you would term it, a gambler, or whatever you want to call it, if you come to me and ask me to buy 10,000 bushels of wheat. If you wish to hedge against cash grain I require you to protect that trade, just the same as I would if you were a speculator. This committee was told by Mr. Murray, of the Quaker Oats Co., who appeared here a day or two ago, about having bought corn and oats to the extent of somewhere around 800,000 bushels which they now have in Iowa. We handle a great deal of their business; that is my business—handling hedges for industries and millers. I have some speculative business I can not tell when it is speculative business always, and no one else can. I suspect that some of this business is speculative. I do not mean the Quaker Oats Co., but I mean that these mills might buy a little more than they would need as a hedge, or sell a little more. I would not know. They have approximately a million bushels of oats that they bought for their cereal mills and send it all over this country and Canada, and that is hedged. Now, I do not handle all of their business, but if I have that sold, and the market has been going up, I call their margins just as I would you. I do not know what you are going to do with it, but you must put up your money to protect your obligations because I, in turn, must put up my money to protect my obligations. When I have made this sale I have made it to some other commission house, who represents some buyer, and they ask me to put up the money to protect that obligation. That is done all the time, all the way through, not only by the customer of the house through which he is trading, but between the different commission houses who make these trades with one another for their customers.

Senator KENDRICK. Does the amount that is required vary?

Mr. ARNOT. It depends entirely on the character of the man, his availability to be reached quickly, the condition of the market, and the prices that prevail. If the market is very high, where there might be a big slump, you call for more. You have to be fairly protected. If it is a stable, settled market, with no crop news coming in to disturb the situation, those margins are small.

Senator KENDRICK. Is the amount required a matter of discretion with the agent?

Mr. ARNOT. Absolutely a matter of discretion with the commission house that takes these orders, and it depends upon the customer, who he is and where he is, and the kind of market prevailing at the time, and the price of the grain. It does not matter how good they are, we have to have them protected, because we in turn must protect, and we can not put up our money to an unlimited extent in caring for that obligation, no matter how responsible they may be. It is done universally.

So it is all marginal trading in a sense. It has nothing to do with the intention of the customer to take delivery or to make delivery in case he has made a sale.

Senator KENDRICK. I want to ask this question, Mr. Arnot, that I asked Mr. Van Dusen this morning: Assuming that all trading was purely on a business basis, or even, we will say, speculative, and was not intended that the purchases should clearly drive the market up or down, is it your opinion that the volume of business affects adversely either the price received by the producer or the price at which the product goes to the consumer?

Mr. ARNOT. The broader the volume of trade, barring reckless and unusual and unnecessary operations by individuals or combinations if they exist—the broader the volume of trade the more stabilized is the market. The narrower the market, the greater the fluctuation, as has been demonstrated in wheat and as has been demonstrated in many of the outside markets, as the gentlemen who represent them will tell you.

Senator KENDRICK. Is it your opinion that a stabilized market is favorable to both interests, the producer and the consumer of the grain?

Mr. ARNOT. I certainly think so.

A number of the gentlemen who have appeared for these markets and given evidence here, representing markets where they do not trade in futures at all, and having no personal interest in the Chicago Board of Trade, where the future business is the largest part of the business, except as it serves them as grain merchants, have testified that the broader the trade, the more stable the market, the better hedging market it is, and they can place a hedge, they are buying or selling with less deflection of the market or interruption of the price.

Senator CAPPER. I do not quite understand what you mean when you say "the broader the trading."

Mr. ARNOT. I mean the more of it.

Senator CAPPER. Is it not a fact that the volume of business on the board of trade is larger when there is excitement in the market and fluctuations?

Mr. ARNOT. I make the exception of some unusual transactions on one side of the market, which may come through attempted manipulation by somebody or it may come through some unusual influence, like domestic crop reports, or the destruction of a crop by adverse weather conditions in some other country.

Senator CAPPER. Of course, that only comes occasionally.

Mr. ARNOT. Crop reports are coming in every month during the growing season and a little while thereafter.

Senator CAPPER. It has been my observation that these wild fluctuations are always accompanied by the greatest activity in the grain exchanges.

Mr. ARNOT. Well, logically; take the converse side of that and reduce the market to a point where some of these little markets are by reducing the volume of trade like it was in Omaha when they attempted to trade in futures. You would go in and execute an order of 10,000 bushels, and you could put the market up several cents a bushel. Nobody there would want to sell it; there was nobody to do business with. You must keep an active interest in the market

if you want to have a continuous market, a market that will take a liberal volume of grain without unduly depressing or inflating prices.

Senator CAPPER. For the last six months the tendency has been in the direction of a bear market, has it not?

Mr. ARNOT. Unquestionably.

Senator CAPPER. And that encourages manipulation, does it not?

Mr. ARNOT. It encourages it?

Senator CAPPER. Yes; that is, the manipulation is usually on a bear market, is it not?

Mr. ARNOT. Senator, I understand it entirely differently. I do not believe it is humanly possibly to manipulate a market downward. You can manipulate it upward.

Senator CAPPER. To manipulate upward is what you call a corner.

Mr. ARNOT. That is a corner, yes. You can buy more than there is; but if you sell more than there is, somebody has bought it from you and you can not make delivery. How can you manipulate the market on the bear side without putting yourself in jeopardy when you are doing it—absolute jeopardy—and when the time comes to fulfill that contract, what are you going to do about it? You must have the money, you must have financial responsibility to meet your obligations, and you are going to lose.

Senator CAPPER. Does the board of trade take steps to prevent the cornering of the market?

Mr. ARNOT. Yes, sir.

Senator CAPPER. A corner of the market is always a bull movement, is it not?

Mr. ARNOT. Yes, sir.

Senator CAPPER. It would mean an advancing price?

Mr. ARNOT. It means buying more than they can deliver to the purchasers.

Senator CAPPER. Well, a corner of the market is attempted for the purpose of advancing the price?

Mr. ARNOT. Yes, sir.

Senator CAPPER. Now, has the board of trade taken any steps to prevent manipulation of the market for the purpose of depressing the price?

Mr. ARNOT. No, Senator; nothing more than the exercise of such police power as possible. I do not know how they can do it except by demanding the books of certain firms at certain times just simply to find out whether they are selling more than they ought to sell.

Senator CAPPER. Would it not be a good plan, then, to have some sort of governmental supervision, such as we contemplate in this bill, which will give some impartial Government official the opportunity to see the books on just such an occasion as we have in mind here, when we think the market is being manipulated by somebody for the purpose of depressing the price of the farmers' product?

Mr. ARNOT. I should have absolutely no objection to that. The records of all the trades are there, and if a bill is to be passed, there is no objection to putting in that bill the requirement that they shall keep these records for two or three years, possibly. I have no objection to the authority being given to the Secretary of Agriculture in a bill of this kind, if legislation is to be had, that he may demand a report. Continuous reports, I think, are out of the question, because

you have no houses here big enough to keep them in and you could not use them if you had them.

Senator KENDRICK. And they would be unnecessary.

Mr. ARNOT. The buildings are all filled up here. But, as I say, there would be no objection to his being given authority to require a report from any grain exchange when he had reason to believe that it was necessary to determine whether the operations on the board were not being conducted in the proper way. There is no objection to that whatever.

Senator CAPPER. In what period last fall did we have the wildest fluctuation in the wheat market?

Mr. ARNOT. Last fall?

Senator CAPPER. Yes.

Mr. ARNOT. I have no statistics on that.

Senator CAPPER. Well, in what month was it?

Mr. ARNOT. I think all of that data is down here. I think Mr. Hargis gave it in detail. I believe it is in the record. If I tried to give you the day or the month it would be inaccurate, although I will get it for you if you would like to have it.

Senator CAPPER. During the month of September there were great fluctuations, were there not?

Mr. ARNOT. I think so. I recall in September we had quite a decline.

Senator CAPPER. There was one month in which there was a range of around 40 or 50 cents, was there not?

Mr. ARNOT. Yes, sir.

Senator CAPPER. Was there any talk of manipulation at that time?

Mr. ARNOT. There is always talk of somebody buying something or somebody selling something, but I never heard of any talk of anybody manipulating. There is talk at times of people selling any unusual quantity or buying any unusual quantity.

Senator CAPPER. You think there was no attempt to manipulate the market at that time?

Mr. ARNOT. No, sir; because I do not think you can manipulate a market downward.

Now, let me say this: There has been a reference made to the governor of a Western State—I will not use his name—in his attack on the grain exchanges. A letter from him on this subject was sent me by a friend to whom he had written. In this letter he expressed the idea that the big decline was brought about because of the fact that there was a tremendous demand for wheat for export and that our exporters here at the seaboard, perhaps, or the foreign buyers directly, had made contracts with grain dealers in this country for large amounts of wheat which at that time were not available, were not in the terminal markets, or could not be bought as cash wheat, and it was his opinion that these people who had sold large amounts of wheat for export had gone into the markets and hammered the price down until they could come in and buy this wheat against the sales made to exporters at a large profit.

Now, there is only one way of putting the price down. You can not take a hammer and put it down. You have to sell the grain to put it down. That is certain. If you sell more grain and offer more grain on the market than there are buyers for it, it is forced down to a lever where the buyers will appear and take the offerings. You

might be a speculator or a grain man, and you might put it down 2 cents, and if I think that is low enough I will buy 10,000 bushels. You might put it down another 2 cents, and you would buy 10,000 bushels, and so on, until somebody buys all of the wheat.

If these people were all short of wheat, it occurs to me that if they were right in their position the market would go down anyway. If they were not right in their position, it is not reasonable to assume that they will double up. If they went short 10,000,000 bushels of wheat to the exporters, would they go in and sell 10,000,000 bushels more to put the price down and put themselves doubly short on the market?

I do not believe that argument is logical and I do not believe it is ever done. A man who sells grain short must buy it back; that is all there is to it; and the only way you can put the market down is to sell it and the only way you can put it up is to buy it, and at times it has to be in tremendous volume to affect the market. I have seen a million bushels of grain bought and the market go down at the time it was being bought, and I have seen a million bushels of grain sold and the market go up at the time it was being sold. I experienced it myself in the execution of orders.

Senator CAPPER. Do you know which operators on the Chicago Board of Trade executed the orders of the British Purchasing Commission?

Mr. ARNOT. No, sir; I do not. It was my opinion that no one person or firm did that. Their purpose was to prevent, as much as possible, any publicity, and it was reasonable to assume that that business was put in the hands of agents to distribute those orders the best they could, without directing attention to the buying by any one house.

Senator CAPPER. You do not know who that agent was?

Mr. ARNOT. I do not. I never handled any of their business, and had no way of getting the information.

Senator CAPPER. A big contract like that would have to be executed through the largest operators on the market, probably?

Mr. ARNOT. Yes; through a number of them. I question whether any one house would want to fill an order that large for anybody.

Senator CAPPER. You heard no rumors that any of those operators who had contracts with the British Purchasing Commission were at at any time selling wheat before executing the contract?

Mr. ARNOT. No; I still take the position that that is a foolish thing to do—if you want to buy something, to sell it first, and then sell some more. When I want to buy something I go out and buy it, and I do not sell it first, because I would be just in that much worse position. It is illogical as a commercial proposition.

The CHAIRMAN. I suppose the theory is, although I do not profess to know anything about it, in the case that Senator Capper is speaking of, if I were a member of a board of trade and got an order from somebody, the British Governmet or anybody else, for a very large amount of wheat, the order would fix the price that I would pay, would it not?

Mr. ARNOT. It may or may not. In an order of that kind unquestionably there would be a limit.

The CHAIRMAN. Yes.

Mr. ARNOT. They would limit you, perhaps, to so much above the present market, or something like that.

The CHAIRMAN. Yes. Now, if I have formed the opinion that when this large order was placed on the market, being so much above the ordinary, it would have a tendency to increase the price, and I wanted to profit by it, having that knowledge, that such an order was coming, would it not be reasonable for me to feel that I might buy some wheat myself?

Mr. ARNOT. Certainly.

The CHAIRMAN. And take advantage of that rise when it came up, to sell it again.

Mr. ARNOT. Certainly.

The CHAIRMAN. And in order to make it interesting for myself, to make it as low as possible, when I knew that this big order was coming in, if I thought I could depress the market by selling some wheat, I would sell some?

Mr. ARNOT. Certainly. That assumes that you are not on the square with your customers.

The CHAIRMAN. Yes, probably.

Mr. ARNOT. But if you can tell me any way you can stop that or find out that it is being done, or catch anybody at it, you will render the greatest favor that has ever been rendered to the Chicago Board of Trade.

The CHAIRMAN. My idea was that you were contending that that could not be done, that a man would be foolish to sell when he expected that he would have to buy.

Mr. ARNOT. Oh, you mean when he has some information, to take advantage of a big order?

The CHAIRMAN. Yes.

Mr. ARNOT. Certainly. But I am just talking about the man who wants the actual wheat. He does not go in and sell some more if he wants to cover that wheat.

I admit that there have been many evils, Mr. Chairman, but I reserve the right to classify; we have the avoidable ones, and the incidental and unavoidable ones. There are unavoidable evils, and I believe there are in every organization of human endeavor, and there always will be, and, perhaps, there are many avoidable ones, but I do not think they are nearly as extensive as the public is generally led to believe from the headlines in the papers. I speak sincerely and honestly without any intention of fooling you. If I did I would fool myself.

Senator CAPPER. Admitting that there are evils and there are a great many complaints made against the methods of the boards of which, many of which, you say, are unwarranted, would it not really establish confidence in the boards of trade and be to the advantage of everyone on both sides, and on all sides, if some sort of fair and reasonable governmental supervision over the board of trade, which is supposed to be a public market for both the buyer and seller, should be had? Would not such an arrangement as that be really to the advantage of all concerned?

Mr. ARNOT. If that arrangement could be perfected in good form and operated effectively and honestly, there is not any argument about it at all. The question is, Mr. Senator, in reply to that, the means and methods of bringing that about without at the same time unsettling the minds of everybody who is connected with the market,

and having ever present the fear of something that is likely to happen. That will tend to drive people out of the market and they will not be interested in it any further than they have to. That is a danger that will always confront you.

Senator CAPPER. Don't you think that that fear will probably soon be dispelled and the market be on a substantial basis and the business go on without serious interruption if there were a basis that would bring confidence on the part of people doing business there?

Mr. ARNOT. If they had confidence that that would be properly exercised, I think so; but, as I say, that fear is there.

Now, I want to say this to you, that it does not follow from that that the officials of the grain exchange have not been making efforts to devise plans from time to time by changing their rules to correct the evils. As I have told you, we have between 1,600 and 1,700 members of our board, and it is not always possible to educate that many people to the necessity of making a rule that the people who give the most earnest attention to the business find it advisable to propose. Therefore, many good rules are defeated when they are brought up. As men who should be returned to office because they are good men are sometimes defeated. The same thing is true in both general and municipal elections. The officers of the boards of trade should not be accused of not making efforts in that direction, although the rules that they propose in a reform way are not always adopted. We would like to reach every one of these things, but we have a tremendous task, and I think a great effort has been made in the last five years to accomplish it and much improvement has resulted.

You spoke of the puts and calls. I am willing to go on record as saying that I see very little use for them, and I think they do the market more harm than they do good. I have always felt so, but my thinking so does not keep them from having it, because there are not enough of us who have thought so.

Then, there is another matter that I want to speak about. I want to say to you that I have on my books out home more than a million bushels of corn and oats sold that will never see Chicago, and it was never intended that it should. It is hedged, and it is at a place where they can get it to their mills to grind into corn meal, oatmeal, and other grain products. That is done right along. It must be remembered that I am only one member, a very small commission man at that, and the amount of that is tremendous all over the country. We get hedges from Canada and from practically every grain country in the world at times when they feel it necessary to hedge their grain in this market. They probably own some cash grain here or buy it against the expectation of exchanging the future for cash grain later on. A contract on a board of trade is just as good as a $5 bill in your pocket. That represents $5 worth of gold, but you do not expect to get the gold. We have something like $3,000,000,000 worth of gold in this country, and our bank clearances last year were $400,000,000,000, or something like that. Now, we do not pretend to have the actual money to do our business with, any more than we pretend to actually deliver all the grain.

Senator KENYON. In other words, the volume of grain coming into Chicago is no criterion of the legitimate business done under the board of trade?

Mr. ARNOT. It is no more than the amount of money handled corresponds to the amount of gold that is back of that money. That is the basis of it. When these contracts are made they are contracts. They are backed up by money, and therefore I claim all of this trading is speculative trading, or hedging, and not gambling.

The CHAIRMAN. I think we had better take a recess for lunch at this point. We will adjourn until 2.30 o'clock.

(Thereupon, at 1.10 o'clock p. m., a recess was taken until 2.30 o'clock p. m.)

AFTER RECESS.

The committee reconvened at the expiration of the recess, Senator Norris presiding.

STATEMENT OF MR. S. P. ARNOT—Resumed.

Mr. ARNOT. Mr. Chairman, there are just one or two things that I want to mention that were not touched on this morning. I am rambling, and I hope you will excuse me, because most of these things have been covered, and I merely wanted to bring out one or two points that might not be clear.

Mr. Tylers stated that some of the buyers had started to sell their grain on bids to arrive and they found that a very desirable way of marketing their grain, and when they did this it was unnecessary to use the market to hedge, or to hedge their grain that they are selling. He thought perhaps that might be developed to the extent that they would not need to do any hedging at all.

I want to call your attention to the fact that the men who send out these bids on which grain is sold to arrive are basing the bids on the market at the close of a certain day, and these bids are subject to acceptance up until, say, 9 or 9.30 the next morning, the exact time varying in different markets. These bids are only possible by reason of the fact that the men who make the bids can hedge on the bids that are accepted. In other words, instead of a man who owns the grain hedging in the market and shipping it in two or three weeks or longer, as the case may be, and then uncovering the hedge, the man who sends the bids hedges the grain the minute he receives an acceptance. It is just a question who does that. It just transfers the operation to the dealer in the market who buys the grain instead of the dealer in the country who bought it and is selling it to him.

I want to speak briefly of this authority that is placed in the hands of the Secretary of Agriculture under this bill of revoking the license, so to speak, or the privilege of a market doing business as a contract market, and to urge, with all the possible force I can, the necessity of guarding this law with such provisions as will not make possible the danger that could come to a market if the people who are interested in that market feel that it was very likely that the permission to do business could be suddenly taken away from them or in any way curtailed.

I cite my own case because that is more specific and I think understandable. I have, as stated before, over a million bushels of grain hedged for men who expect to use this grain in their business of

milling. They have this grain sold against in the market at Chicago. They never intend to bring that grain there. It is not their purpose in hedging it. If it were rumored that the Secretary of Agriculture was about to or was thinking of revoking the license of that market to do business, I would find myself short a million bushels of grain on the market for manufacturers of grain products, and I do not know how I would cover it or how they would cover it through me as their commission merchant. There would be nobody to sell it to them. No speculator or anybody else would go in a market and sell that grain on that market if it were threatened that the market was to be put out of business, and they would have no way of buying it back. I can only buy that grain from somebody who will sell it to me. We should have ample protection, not only for maintaining the validity of a contract previously entered into, but for a reasonable opportunity to conclude those contracts under a normal way, the same way they were placed. Those conditions should be carefully studied and worked out when you propose to delegate to any man—I do not care if it be the President of the United States or anybody else—the right to even threaten such action. A rumor to that effect would be disastrous in some situations and under some circumstances.

I can not impress that upon you too strongly, because it is a serious consideration. If the conditions were open for such an occurrence, these men would simply have to refuse to hedge their grain on the market because they would be afraid to do so.

Finally, I would say with reference to the method of supervision of the grain exchanges: I believe that the only way that the practices now complained of on these grain exchanges can be corrected—and it is desired by many grain men as well as others to correct them—must be done through the officials of those exchanges themselves. There is no one outside of that particular business that is sufficiently informed regarding all the ramifications of the business and the conditions surrounding it, however brilliant and brainy he may be, however successful in other lines of business, to construct or enforce rules that will bring about the changes desired in the situation.

Senator McNary. You think that would be too difficult for the Secretary of Agriculture or someone working under his direction?

Mr. Arnot. Yes, sir; I think none of them could, unless they had the assistance of trained men, men who have thorough knowledge of these markets, make rules that are practical to cover these things. And I would urge, in case you attempt thorough legislation to bring about these reforms, that the effort be made to so construct your legislation as to place the responsibility on the officials of these exchanges to effect the remedies that are found to be necessary. In other words, give to the Secretary of Agriculture, or to whomever else you may designate this authority, the right to judge of unnatural conditions. He must have that right or there would not be anything to it. Then give him such authority as will enable him to require the officials of these organizations to correct the errors that he finds existing. By that I mean that the officials will find it very much easier, as you stated this morning, Mr. Chairman, to accomplish such reforms as may be desired if they have back of them some other force that will help them to do it. That I believe is logical and will be more effective and will give just as

much power to the Secretary of Agriculture as he would have if he constructed his own rules and tried to enforce, or have some representative there attempt to enforce, the rules that he himself puts in for the government of these exchanges.

Senator McNARY. That is, you want the board to prescribe certain helpful rules and the Secretary of Agriculture will see that they are executed?

Mr. ARNOT. I want the Secretary in the exercise of his authority, if he is to be granted authority to supervise us, to demand certain results and eliminate certain conditions that he may find in those exchanges; but done through the machinery of the board, because they can accomplish it so much better than anybody he can designate that is unfamiliar with the grain business.

Senator McNARY. How could you require certain results without the Secretary promulgating certain rules to follow in order to obtain these results?

Mr. ARNOT. I would answer you, Senator, in this way. The Secretary, as I understand it, if everything goes along all right and no complaint is made with respect to these exchanges, is not going to do anything. If there are complaints it is up to him to determine whether there is any basis for them, and then he can bring to the attention of the officials of the exchanges the complaints and the basis for them and direct and order the officials to correct them and also to punish those people who are responsible for them.

Senator McNARY. Is it not true that the president of your board of trade, Mr. Joseph P. Griffin, directed a letter to the board of directors on February 28, 1921, calling attention to certain evils and asking for their correction which are comprehended in the provisions of this act?

Mr. ARNOT. That, as I understand it, Senator, was the deliberate action of the directors of the board of trade in outlining some things that they thought unnecessary that were complained of and that probably should be dispensed with, not necessarily what this law would require to be eliminated, but what, in their opinion, was necessary to eliminate in order to bring the exchanges in line with public thought.

Senator McNARY. Now, let us see. Here are some of his enumerations:

> The evils or practices to which I refer are as follows:
> Overspeculation.
> Market manipulation.
> Indemnity transactions.
> Private-wire offices in smaller cities and villages in the agricultural districts tributary to the terminal markets.
> Trading in future delivery in the distant futures.
> Failure to properly censor market news, crop reports, etc.
> Short selling.
> Suggestions as to a proper method of coping with this situation are numerous and come from many sources.

Then he goes on and discusses these evils which are pointed out. Are not most of these touched upon and embodied in the general principle of this bill?

Mr. ARNOT. Yes, sir; I think you are right, Senator, I think they will be covered, but, Senator, there are other things that come up from time to time that might be wrong, some practice, for instance,

that was never experienced before which we would want to correct. There is no bill that can cover all of these things that might go wrong on an exchange. However, it is the duty of the men who are there and in touch with conditions to find out and correct those things, and they should be made to do that. That has always been my opinion and is yet. They can do it better with authority back of them than otherwise, but it is up to them to do it.

Senator McNary. I think that is probably true, but supposing they do not do it, and supposing the Secretary of Agriculture has not the authority to make them do it and that he is not able to follow all these ramifications; how then could that duty be imposed on the board?

Mr. Arnot. I am assuming that you give him that authority.

Senator McNary. But you would rather have the standard measured by the board itself than have it prescribed by the Secretary of Agriculture?

Mr. Arnot. I beg your pardon, Senator, I did not mean to be so understood. I mean that the Secretary of Agriculture can take cognizance of anything complained of and make an investigation and determine whether the thing complained of should be eliminated or not; that he should have the power to order, by such rules as may be necessary, that those things be done away with and that the people doing them be punished.

Senator McNary. If that is so, he does, in fact, establish and promulgate rules. I want to clear up in my own mind your situation, which does not appeal to me.

Mr. Arnot. I am trying the best I can to understand you, Senator.

Senator McNary. You said a moment ago that if the practice were found to be unwholesome and were brought to the attention of the Secretary, then he should have the right to formulate his rules and carry them into execution. If that is true, then does not the bill necessarily place on him the responsible power to promulgate rules? That is the point I make and that is where I think your record is not clear.

Mr. Arnot. Senator, I am trying to say that he should have the power to compel the exchanges, through their officials or otherwise, to conduct the business, if this bill is passed, in a way that meets with his approval. I do not believe that he should try to draw up a set of rules but that he should demand of the directors that they bring the business through their own rules to conform to his general ideas of what the exchange should do.

Suppose you are the owner of a factory and I am your superintendent and you tell me you want to accomplish certain reforms and you want me to bring about those reforms. You do not know the conditions with which I have to contend, but simply want the results and I am responsible to you. I want to give him that same authority. If I do not bring about those reforms as you request, you fire me; that is all.

Senator McNary. But you are the superintendent and I am the manager, and I have an idea as to what should be done before I direct you to do it and I know whether you conform to it or not when you bring back the results. Now, the Secretary of Agriculture could not know this business; therefore, it should be left to the board. Your analogy is not good. I want to ask you this question: If you

say the Secretary could not, by reason of his position, understand the very difficult channel through which this whole agency moves, and he should not prescribe rules therefor but they should be prescribed by the board and the Secretary empowered to enforce but not prescribe them, how would he know whether there was an abuse or not?

Mr. ARNOT. Whenever he has authority I think he will be informed quickly and positively every time there is an abuse, and I think he might take means of his own to secure information on that point which would not be objectionable.

Senator MCNARY. As I said, I want to get your thought on this very important matter. You mean that the Secretary should not be authorized by provisions of this bill to prescribe rules for the regulation and conduct of the board. You think in doing that you are granting too much power into a hand that is not capable of calling for a proper execution of the rules?

Mr. ARNOT. I do. I am not referring to our present Secretary.

Senator MCNARY. No; and I am speaking impersonally.

Mr. ARNOT. There are many of them who are not at all acquainted with the grain business. I think the Secretary should have the power to demand results.

Senator KENDRICK. Is not this true, that your idea is that whether or not the Secretary lays down the rules for the governing of the exchange, he should secure his results through the exchange itself as an agency?

Mr. ARNOT. That is correct.

Senator KENDRICK. It should be the instrument through which he attempts to secure results?

Mr. ARNOT. I think that is the only possible way in which he can get results, because if he puts an outsider there who does not know the market and who does not know the men, he could not exercise intelligent supervision over it for five or six years.

Senator KENDRICK. I think it might be interesting to say here that as I understand it the supervision of the live-stock markets in Canada provides, among other things, for the organization of an exchange where there is not already one in existence; in fact, it requires it, so that it may be used for this very purpose.

Mr. ARNOT. That is all I have to say, Mr. Chairman.

STATEMENT OF MR. L. F. GATES, OF THE FIRM OF LAMSON BROS. & CO., OF CHICAGO, ILL.

Mr. GATES. Mr. Chairman and gentlemen, I appear at the personal request of President Griffin of the board of trade, who is detained on official business in Chicago. I hold no official position at the present time with the board of trade, although I have served as an officer for a number of years.

Senator KENDRICK. Were you not recently president of the Board of Trade of Chicago?

Mr. GATES. I was president of the board during 1919 nad 1920, and previous to that time, with the exception of two years, had served on the board of directors.

I should like very much, Mr. Chairman, if I may be permitted, to make a statement and discuss these matters with you, and while I

would welcome interruption if it could be confined to the one thing that I may be talking about at the time, I think that you will get what I have to say if I am allowed to complete my statement before you seriously question me in regard to matters of policy.

I have no complaint with those who are prejudiced against people in the grain business, particularly on the boards of trade, because 25 years ago I had that prejudice myself. It was an ignorant prejudice, but it was an honest prejudice, and I think those who are prejudiced at the present time are honest in their ignorance in regard to the workings of the board.

I should like very much, if I may, to discuss with you, first, the development of the Chicago market, because there are certain characteristics of the Chicago market that will bring it into particular prominence that makes Chicago the target for a good many attacks, and we have our peculiar problems in connection with it.

The board of trade is an organization incorporated under the laws of Illinois. It is not a public market. It is a private organization under a charter not for profit, a charter from the State of Illinois.

As this market developed and before there was any board of trade, grain was marketed in Chicago. But after it was incorporated the business of the West at that time came through Chicago. That was in the early days. Gradually, as the country has developed, Chicago has lost a good deal of its cash grain business; that is, the proportion of the grain that is raised in the grain-producing States that passes through Chicago physically is less than it used to be.

At one time she had a commanding position both in cash and futures; that is the grain that physically moved through and the grain for future delivery. She has lost that partly because of the outside market development which is perfectly natural in fields that are near the fields of production, because of the development of country storage, and because, more recently, of change in railroad rates which have disorganized the whole machinery previously established to handle the business.

She still retains six-sevenths of all the future trading business that occurs anywhere in this country. That loss of the cash business to these other markets and the retention of the future trading gives us special problems.

The volume of future trading, although large, is 30 per cent less during the five years investigated by the Federal Trade Commission than in the eighties. It is 50 per cent less, if you take the years immediately preceding the war; that is, the years of more normal times. You will find that in volume V, page 42, of the investigation by the Federal Trade Commission of the grain trade, which appeared last January or February, I think. In the eighties it was 50 per cent more than during 1909 to 1913. That is divided in this way: About half of it is trading by members for themselves; very largely what we call scalpers; that is, the man who is there to furnish the ready market at any minute and who will buy at the bid price or sell at the seller's price at any time. He waits for a more permanent buyer or or seller to come into the market. He is willing to carry it a few minutes or he is willing to carry it hours, possibly, but is usually even at the end of the day. The second class is that of members trading for other members, and that constitutes 30 per cent of the business.

Public participation in the market; that is, by people including those in the grain trade who are not members of the association, is 20 per cent.

Let us keep that in mind because it may be a factor in discussing other matters. Public participation at the present time is only 20 per cent of the volume of trading. That is as near as we can get at it by investigation.

We have very much larger crops than we had in the old days. We have less public participation. The grain trade each year, or during each period of years, is using this market more and more as a hedging market. If we could have such a volume of hedging business, if every one who could use the market for hedging purposes should use the market for hedging purposes equally and at the right time, you would not need much of that public participation.

The tendency during these last 30 years has been to get away from the public participation in the market and it only comes in large volumes at such times and when stimulated by such conditions as we had at the outbreak of the war. We have had a rather difficult time during the last few years, partly due to the wave of speculation that comes into our market as well as in other things. The time may come when the market will be mainly a hedging market; that is, with the temporary provision through the scalper and through the professional trader possibly, but that time has not yet arrived. But even now the public participation is only 20 per cent. At the present time the hedging which this bill recognizes as exceedingly valuable is dependent on speculation in the market, not speculation outside of the markets, but in the markets.

In order to clear up just what a hedge is, may I refer to Volume I of the Federal Trade Report, page 207.

"Hedging" is the term commonly applied by the grain trade to the method employed by many dealers in cash grain of protecting themselves against losses due to market fluctuations by executing with cash purchases and sales practically simultaneous future transactions upon the opposite side of the market. * * * Country elevators which hedge their grain do so primarily for the purpose of protecting buying margin; i. e., the difference between the prices paid the farmer and those prevailing in the terminal and other markets. If these elevators could sell the actual grain immediately after purchase, hedging would be unnecessary, since in such event the market fluctuations between the time of purchase and the time of sale would be comparatively slight.

From page 210 of the same volume, I read as follows:

Hedging in the most exact sense of the term and to secure the fullest possible protection requires that the execution of the cash and future transactions on opposite sides of the market should be as nearly simultaneous as possible and that the further apart they are in point of time the more the operation partakes of speculation and the less the reason for regarding it as hedging.

Again on page 212:

The hedging operator theoretically, as it were, consents to a limitation of his profits in return for a limitation of his losses.

There is the gist of what hedging is, and that is the thing that is dependent on speculation. Speculation is not always exactly adjusted to the hedging requirements. It is always there in a certain volume; at times in greater volume than is needed and at times in less volume. It is not exactly adjusted, because this law of supply and demand works through human agencies and men's minds work differently, and they are not always ready to assume a risk. Some-

thing may occur to disturb their confidence in values, and while ordinarily they would want to be there as purchasers, temporarily they are discouraged and are out of the market and do not participate in a helpful way to stabilize values. That is important to keep in mind, also, in connection with what may come up later.

You will recognize that if it had not been a natural development Chicago would not be the largest hedging market. In the evolution of things Chicago would lose its preeminence as a future market, just as it has lost part of its preeminence as a cash market. There is still a large volume of cash business handled through Chicago. The volume of that business in a surplus year, a year of very large crops, is larger than it is in a year when the supply is pretty nearly adjusted to the demand. Then it moves in the most direct line between the producer and the consumer, because competition sees to that. But Chicago is the surplus market. It carries at times the surplus stocks, as has been explained by other withesses, when other markets fill up, when there is a great deal more marketed than is immediately needed. Chicago is that surplus market. That also gives us problems that are peculiar.

The main problem that Chicago has is how to make this market serviceable and attractive to both buyers and sellers and still keep it free from abuse. It is not an easy problem; it is a very difficult problem; and if I should tell you that the thinking men of the trade are constantly working on methods for improving the service and for shutting out abuse, I hope you will believe me, because the Federal Trade Commission gives us credit for having made material progress in that line.

The first thing is, of course, to preserve the integrity of our contracts. During the war period a great many things were done as a matter of immediate expediency which were very damaging to us so far as our contracts were concerned. It was necessary at times to stop trading entirely—that is, interfere with the obligation of contracts, for that is what it was. But our members patriotically sacrificed their legal rights under those conditions. At times prices were fixed at which those contracts should be settled which had not even run to maturity. Other things of that sort were done as a war emergency, and you will remember that we were—I guess we are yet—under the Food Administration and control, or at least under the control of the Lever Act, unless that has been recently repealed. So we had a good many of those things that upset confidence in a market during these war years.

It is, of course, a machinery that is built for peace and not for the unusual strain of war. We admit that it did not work well during the war even in these commodities in which we continued to trade. Wheat trade, you will remember, was shut out entirely for a period of nearly three years.

I may mention right here that one of the greatest things that made manipulation possible in the old days was the matter of curb trading. The Federal Trade Commission, volume 5, page 147, says:

> Even when there was an established curb the attendance was small, the market circumscribed, and the trading usually purely speculative. Manipulation was easy under such conditions, and not infrequently occurred, especially with reference to influencing opening prices the next day.

Then, a little further down, the report continues:

There is practically no curb trading at Chicago now. The only exception, if it is properly to be regarded as an exception, is the overlapping of trades at the close for one or two minutes, when the "boys"—that is, the pit scalpers—may have failed to complete the process of evening up before the bell rings.

We must make our grades deliverable on contracts such as not to be discouraging to the buyer and yet so wide that they will serve the hedger well and will have a tendency to prevent manipulation upward. This has been complicated a good deal by the Federal grades that have been put in, because there have been made so many subgrades and subdivisions that in order to make all commercial wheat applicable on contract the number of grades has been increased.

The tendency of this is, of course, to prevent congestion, to prevent manipulation. Further steps along the line of preventing manipulation have been taken in the car-lot rule; that is, a rule by which all grain received in Chicago during the last three business days of a month may be tendered on contract on those cars. The delivery is not complete, however, until the grain is actually unloaded in the elevator and its weight and grade finally determined.

We have given the directors the privilege of making additional storage, and on that car-lot rule we may do that any time in the month; that is, the directors may, when an emergency occurs. Additional storage may be provided; all in the effort to prevent manipulation upward; that is, by making it burdensome for the manipulator, making it impossible, if you please, to manipulate.

Because the trade recognizes the manipulator as an enemy to the whole organization, to the whole trade, we dislike him just as much as any of you gentlemen do, and if we could find any way of shutting him out absolutely we would be glad to do it. Maybe you can help us on some of these problems.

For the last 25 years, you will remember, the tendency has been gradually upwards. Therefore, the present generation of grain men are faced with a new problem of a manipulation downward, which it is claimed has brought about the declines of the last fall. It is a new thing. The tendency for the past 25 years has been toward a gradual rise in values of the commodities dealt in on the boards of trade.

Corners are of two kinds, natural and manipulated. The natural market may come because there is not grain enough physically moving in commerce to satisfy the contracts that are in the market. You have a natural corner when the farmer may have stuff which he is unwilling to move or which he is unable to move.

The manipulative market is another thing. That is for purely selfish purposes; and the amount of a corner; that is, the amount that will congest the market or bring about a corner, is not a factor. Following the war, for instance, just a little over a year ago, in January, 1920, transportation was so inadequate that the amount of grain at the terminal markets was exceedingly small, even though the amount back in the country was large.

Now, an open market depends for its proper working on adequate transportation. Those two things go together. If you have not adequate transportation, you can not properly conduct a market.

Congestion or wide swings in the market and are not dependent necessarily on manipulation. Oftentimes the sudden appearance of a

big general flour demand will bring into the market such a volume of hedging purchases by millers, as to have the appearance, temporarily, of manipulation. It is difficult to tell what is and what is not. On the reports that we received during the food control I had to look over those—the common gossip as to what was going on was very frequently not justified at all by the actual showing of the day's transactions. Things appear to be often what they are not, and some one transaction which may occur and be spectacular is taken as an indication of the whole trend, which may be a very improper deduction.

In 1911, after providing in various different ways for the prevention of corners, what we call the anticorner rule was adopted. That was 10 years ago. By that rule the man who was using the market as a hedge might, if he thought he was being squeezed, if for any reason he could not deliver the grain, rely on a committee to be appointed to fix the price which was the real commercial value on the last day of the month when his failure to deliver led to a statement to the Secretary that such failure occurred.

Our rules give to the President the power to appoint a committee which shall determine, as nearly as possible, the true commercial value of the corn or oats or wheat, and there is added as liquidated damages anywhere from 5 to 10 per cent of that value. In other words, a man who has an enforceable contract may receive the full commercial value plus a liquidated damage of from 5 to 10 per cent, but he can not squeeze people out of all reason.

Since that time there has been very little trouble, because very frequently the demand for cash grain in this period has led to a higher price than would be the price at which a man could rebuy his contract for future delivery.

Now, as I say, this swing back this last year, which I think more people every day are coming to regard as part of the general economic adjustment following the war—this swing back leading to the charge of manipulation gives us a new problem. We have not yet studied out how to prevent manipulation downward if it is there. I think a great deal of the complaint is absolutely unjustified from what I know of the situation, but if there is justification for it we do not yet know how to remedy it.

The general conditions in the Chicago market and the fact that people want to market as directly as possible are encouraging the trading or the swapping, you might say, of futures for cash; that is, a man who is a miller in Indiana instead of waiting for the delivery of wheat in Chicago, and not knowing whether he will get spring or winter wheat because of the number of grades, will prefer to buy the particular kind of wheat that he wants to grind and sell out the future that he has originally bought against his flour sale. And the converse is true of the man in the country who has hedged his grain.

Now, these trades contemplate delivery. It is not necessary that there should be the physical delivery of the actual grain that was originally hedged in order to make legal the delivery that was contemplated any more than it was necessary for me, if I go to the bank and borrow $100, if I can, to pay back the identical hundred dollars that I borrowed. All they want is $100 back. When I make a

contract for future delivery I do not have to deliver the exact grain that I might have in my country elevator at the time, but I may buy a contract of the same kind from somebody else, possibly from another State, who is hedging at the time, to fulfill that contract.

We have also something of a membership problem. The membership originally was, of course, local. I may say, first, that we did not confine the entrance to the exchange originally to the members. Anyone could come in and sell or buy originally. But it was found that a lot of irresponsible people came in there and made contracts, and when you went to look for them you had no power to reach them because they were not members. Consequently, the business in the evolution worked along to the point where they had to confine the business to members so that rules that were known to everybody who dealt there might be enforced.

This membership problem has been somewhat complicated by the fact that people outside who want to use the hedging privilege, who at times want to use the market for shipment of cash grain, buy memberships.

About a third of the general membership is nonresident in Chicago. We have a membership of a little over 1,600.

Senator KENDRICK. Have you placed any limit on your membership?

Mr. GATES. No, sir; but there are now about 300 fewer members than there were some 20 or 30 years ago. That is largely due to discipline, I think.

Senator KENDRICK. Is there any way to liquidate upon the membership rights in case it is not desired to transfer it to anyone else?

Mr. GATES. There is no way; no, sir. It lapses or is transferred to some one else, and because of what the market has been some one else will pay you enough for your membership, so it pays you not to let it lapse. But it may lapse for failure to pay dues and contribute to the upkeep of the association, or it may be forfeited because you made some dishonest statement when you made your application for membership.

That outside membership is a good high-class lot of grain men. They are people in other terminal markets, for the most part. A good many of them are country shippers who have business enough for Chicago to make it worth their while.

Then, there are two so-called farmers' cooperative associations. They are not the kind of cooperative associations that have been discussed before this committee. They are organized on a stock basis.

Senator MCNARY. Do they divide profits or dividends?

Mr. GATES. Dividends, as I understand it. Two-thirds of the membership is local. That is divided between cash grain commission trade, the elevator men, banks, shipping men, etc. A complete statement of that is found in Mr. Boyle's book, on page 16, showing just exactly how the membership is divided. These men are men of moderate means. There is a popular conception that everyone who is in the grain business or on the board of trade is rich; that he is wealthy; that he has made it out of the farmer. That is a very popular notion, and it is a misconception. Our merchants are good substantial merchants. They are not wealthy men. There have been a few spectacular characters in the grain trade who by wise

speculation, shrewd trading, have accumulated large money, but the majority of the grain trade is made up of men of exceedingly moderate means, who, because of the protection of the hedging system, working on a small margin, get such credit facilities that they can do a large business on a small capital. They are not, as a rule, wealthy men. But these men are exceedingly jealous of their rights. Rightly or wrongly—I think rightly—our membership believes that one man is just as good as another, and any suspicion that one member is to have more rights than any other member immediately brings a very severe criticism from everyone. They object to any special privilege whatever of one member over another.

You will see that in a market that handles six-sevenths of the Nation's future trading we will have a portion of the membership which by the very nature of its employment is not as ready to see sometimes with the breadth that would be desirable; that is, sometimes a good rule is not passed the first time we put it up. It takes education, it takes time, for these changes to occur. Discipline is enforced. During the past two years I think there were eight cases of discipline in each year inflicted on the members. I think there were three cases in which trials were held and no discipline inflicted; that is, the people were acquitted of the charges.

Our officers are elective officers who serve without pay, and do not give their entire time to the official work, except in unusual cases, such as the last few years. There has been a constant improvement in this method of marketing. Let me refer to Volume V, page 29, of the Federal Trade Report. I read as follows:

> The 50 years during which Chicago has been the great market in the United States for grain futures show many improvements in rules and methods of dealing.
>
> The most important of these, however, if one may judge by the incidents of such trading, have been made in the last 20 years. For the period prior to 1900 the history of future trading in Chicago seems to have been largely a history of corners, and the market seems to have afforded more opportunity for this and other forms of manipulation than for the devefopment of an economic organization adopted to the needs of the public. However, this impression may be due to the tendency to record what is sensational rather than what is serviceable. Since 1900 there have been comparatively few important corners. The condition that developed in wheat futures in the spring of 1917 has been referred to as a corner, but not correctly, since there was not present the element of intentional manipulation which is essential to the idea.
>
> Further development and improvement of the system and methods of future trading are, of course, to be expected.

On page 72, in speaking of censorship in regard to news, there appears the following:

> Doubtless another reason is the evolution of a keener public conscience on the subject of manipulative speculation, which is reflected in the attitude of the governing bodies of exchanges.

Now, I cite that because this Federal trade investigation has been on for four years, and these people have made a rather thorough study of it. There are no conclusions yet published.

Now, we come to the matter of legislation, and if I discuss this with some frankness, Mr. Chairman, I hope you will not consider that I intend any discourtesy either to this committee or to the Congress.

This is a national problem rather than a local problem. The fact that it is a market that is used by the people all over the country is

the thing that gives it its national interest. We have no question about your right to legislate on this matter. But I recall that two years ago when I appeared before this committee Senator Kendrick asked me the question, "What kind of laws bring confidence"? In general my reply was this: They are laws that adhere to American ideals. That is fundamental. They are laws that show sufficient study of the subject in hand to have enabled legislators to arrive at some solution, and, therefore, they command respect. They are laws that are specific and definite, so that they allow of an adjustment on the part of the individual citizen to the law; because I think there is a general wish to respect and obey the laws, but some laws are so indefinite that we never know what is meant by them, and they are not of the kind that bring confidence. Such laws are almost self-enforcing because they are backed by general public opinion and respect. Up to this time the laws that we have passed and the development of this country, I think, is very largely due to the fact that our laws have encouraged individual initiative, but we realize that that must not go unhampered necessarily in the public interest now.

We are willing that there should be a supervision of our business in the national interest; but we adhere to the Massachusetts bill of rights, which says that "Ours is a Government of laws and not of men." This sort of legislation by rules and regulations rather than by statute can not command respect. It does not adhere to the fundamentals that we consider essential and that are American ideals. We are citizens before we are grain men. This is not an American method of legislating.

Under those conditions a law changes with the change of the administrative official. One administrator construes a law one way and makes certain rules and regulations. The next man's attitude is entirely different, and the law is changed. In other words, you have delegated your law-making authority to him as to what the law shall be from day to day.

I wish to call to your attention the fact that during the food control—and I say this because this is dealing with a market which is particularly susceptible to changes in sentiment—during the food administration statements by the officials that had in charge the administration of the food law were material market factors. I think there was never any intention to misuse their position at all, but that is the fact. People throughout the country watched for the statements of officials and interpreted them in market terms immediately.

That food control law, as I remember the public impression, created a separate administration; that is, separate from the Department of Agriculture, much to the disgust of some people, as I understand it, because it was the intention of Congress that that should be a temporary thing. They did not at that time recognize food control as a reasonable thing in time of peace; and yet, in so far as it affects the grain trade now, soon after the war, before we have a treaty of peace even, there is an attempt to make that a permanent thing by this bill.

Under that food administration we considered any request of the Food Administrator, or the head of the Grain Corporation, as an

order. I have no doubt that that would be the general attitude under such a law as this, unless the man should go too far. This is a holdover from the war, and I hope that we are legislating now for peace. This is something that we have imported from Europe. I do not know whether it came back from the armies or whether it came in some other way; but this method of legislating authority to a bureau head or a department head is something that has failed in Europe. Russia fell down under it, and it is just as easy for a republic to go down to bureaucracy and anarchy as it is for an autocracy or a monarchy. We are likely to bring upon ourselves exceedingly serious problems by yielding to this method of legislation.

May I say this about the Russian grain trade at this time. The difference between the Russian grain trade and our own has resulted in a very different situation for the Russian peasant than for the American farmer. Russia is just as near those European markets as we are; in fact, she is nearer in distance, and probably as near in cost of transportation. The difference is, of course, due mainly to the difference in our people. In this country, with individual initiative and courage, we have built up a system which is the admiration of the rest of the world, because the producer gets most of what the consumer has to pay. In Russia it is entirely a different proposition. Every man in the chain takes off so much that there is not anything left from the consumer prices for the producer.

Senator McNary. Was that under the old form of government or the soviet?

Mr. Gates. Under the soviets there is no production whatever, above the local requirements, as I understand it. I understand that that worked very well for the first year. The peasant was very glad to have the land given to him, but when at the end of the harvest year they came around and told him that all the grain he had produced except what he needed for his immediate family, must go to the state, he changed his mind the next year and did not produce except enough for his own family.

Senator McNary. You are really discussing the situation prior to the braking out of the World War?

Mr. Gates. Yes, sir.

Senator McNary. That is what I wanted to get at. You are not discussing present conditions?

Mr. Gates. I am speaking of Russia—which for years has been the biggest exporter in the world—before the war.

May I quote just a part of a decision of the United States Supreme Court in regard to this bureaucratic sort of legislation? [Reading]:

> The very idea that one man may be compelled to hold his life or the means of living, or any other material right essential to the enjoyment of life, at the mere will of another seems to me intolerable in any country where freedom prevails, as being the essence of slavery itself.

Senator McNary. If I may interrupt you there—I think that is a principle to which we all can subscribe most heartily. I would not do that if I could, and no one else would; but I want you to point out to me wherein the committee brings about this condition that is suggested by the Supreme Court?

Mr. Gates. I will show you that when we get to the bill itself.

Senator McNary. I am more interested in the bill than I am in academic discussions of principles with which we all agree.

Mr. GATES. We are getting very quickly to that.

Congress is in this bill saying practically this—that is, the bill as it comes to you from the House—

We have studied this thing for a month. We have had hearings for a month. There are some things that we are determined about. The rest of it we are going to put up to the Secretary of Agriculture. Maybe he can solve it. We can not. It is too much for us.

In other words, Congress gives to the Secretary of Agriculture, under this bill, the right to speculate with the whole grain business. If that is a good principle it ought to be passed along to the producer, because production is more important than distribution. We ought to tell every farmer how much he shall raise, just when to market it, and all that, if this is a good principle; and if started it will rapidly extend to all business.

We dislike very much to see legislation that is based on discontent over war results. If you will look at volume 1, page 20, of the Federal Trade Report you will find that the following is stated [reading]:

The abolition of trading in wheat futures, the regulations of the Chicago Board of Trade and of other exchanges and of the Food Administration with reference to future trading in coarse grains, the licensing of dealers, the fixing of wheat prices, Government control of transportation, food administration regulations with reference to wheat substitutes, together with purchases of the Grain Corporation and various milling regulations, so disturbed the normal operation of the grain trade mechanism that any statistics secured during the war period would have been practically valueless for the permanent solution of problems of grain marketing.

Then can a marketing plan in legislation that is based on prejudice and a desire for class preference due to a decline in the market be satisfactory? You may say, "Well, some law is necessary at this time, and we must use some such form because it is most convenient."

Legislation presupposes a problem to be solved. Now, is there a problem; and if so, what is it, and has it been solved by this bill?

The hearings disclosed that there was a suspicion of manipulation, which I am satisfied from personal knowledge is exceedingly exaggerated, if not entirely untrue. One man expressed the situation pretty well when he said the farmer would be likely to be philosophical toward manipulation upward, but would resent declines in the market and would be likely to charge manipulation.

If it is manipulation that you want to get at—and that was the burden of the hearings in the House—then why not strike at the manipulator himself? There is no penalty whatever in this bill for manipulation. There is a wish expressed that the boards of trade must find a way to stop manipulation, and so far we have not been able to solve it ourselves; and yet the bill says we must prevent manipulation.

Senator CAPPER. You get at the manipulator who makes a corner in the market. We seem to have stopped that effectively.

Mr. GATES. Yes, Senator. I explained earlier in my statement that the trend of values for the last 25 years has been upward. We had consequently had trouble in preventing extortion, you might say. This is a new problem for the present generation of grain men. We have yet to solve it and we would be glad to have your help.

Senator CAPPER. You spoke of prejudice in the minds of the public against the boards of trade. I think one thing that has caused that is the feeling that when the board of trade found that the market was

being manipulated for purposes of bringing about corners which were squeezing the operator, the man on the board of trade, or the man in the grain trade, you were able to protect yourselves and put the manipulator, the man who was cornering the market, out of business, but as to this evil of manipulating the market for the purpose of sending it down and depressing the price and therefore depriving the farmer of a fair price for this grain, you seemed to be unable to bring about any reform in that particular.

Mr. GATES. Senator, may I say this, that this stopping of the corner was not a sudden thing. It was a result of the study of the trade for a number of years. One remedy was first applied, and then another and another. The anticorner rule was finally the best solution of all, and that was passed in 1911, and that was, as the report says here, after we had been having corners for 20 years. The trade has not immediately at hand the solution for this thing. We will be able to work it out in time, I have no doubt.

Senator CAPPER. You mean, manipulation?

Mr. GATES. Manipulation of any kind. But it had not been put up to this generation until the last 12 months.

The CHAIRMAN. You do not want anybody to help you work it out; you want to do it all yourself?

Mr. GATES. We would be glad to have all the help we can get, Senator.

In this legislation you are visiting on the exchange as a whole the sins of the single individual. This bill says that we must, when the governing board provides against manipulation, including a reasonable limitation, and so on, in paragraph D, section 5, and the penalty for failure to prevent it is that the whole membership shall be put out of business. That is in section 6. There is no remedy provided for the manipulator himself. You can help us to punish him.

The CHAIRMAN. We could not make it a crime, could we?

Mr. GATES. If you are going to use this form of legislating you might just as well have another paragraph in section 6 that will punish the manipulator direct.

The CHAIRMAN. Will you draw us that kind of a section and submit it to us?

Mr. GATES. I will help as much as I can, sir.

The CHAIRMAN. The difficulty, as I understand it, is that these things are various and perhaps impossible of direct definition. I do not know how we would draw a definition to bring it home to the individual. At least it is the theory of the bill, as I understand it—if there is any better theory I would like to know it—that the board of trade itself could bring about these reforms, and they are trying by this bill to hold the board of trade responsible. Some of the witnesses that have appeared—and it seems to me that in a general way it corresponds with your idea—have felt that this administrative feature in this bill, if given to the Secretary of Agriculture, is intended to work through the board of trade and have them make the rules, so that instead of being arbitrary and going outside, it will work right through your own organization. But there must be lodged somewhere, in some way, a power that will make the reform effective.

Mr. GATES. You have placed that burden on us. You have said "when the governing board thereof provides against manipulation, including a reasonable limitation," and so forth.

Senator McNary. In subdivision C of section 5 it is provided:

When the governing board thereof prevents the dissemination, by the board or any member thereof of false, misleading, or inaccurate reports concerning crop or market information or conditions that affect or tend to affect the price of commodities.

In section 6 it reads:

The Secretary of Agriculture is authorized to suspend for a period not to exceed six months or to revoke the designation of any board of trade as a "contract market" upon a showing that such board of trade has failed or is failing to comply with the above requirements or is not enforcing its rules of government made a condition of its designation as set forth in section 5.

You make the point that if any one member of the board should initiate a false or misleading or inaccurate report, and that came to the knowledge of the Secretary of Agriculture, under the provisions of section 6 which I have read he could suspend the board and all the members thereof from doing business on the board of trade?

Mr. Gates. Yes, sir.

Senator McNary. You think that you should not be responsible for the action of some member who might start a false report which caused all the innocent members to suffer?

Mr. Gates. Yes, sir.

Senator McNary. That is your point, is it?

Mr. Gates. Yes, sir.

The Chairman. Let us take a case. Suppose this bill becomes a law and I am a member of the board of trade and put out a false report and the Secretary finds it out. Would you be afraid that he would take away your license?

Mr. Gates. Not if we enforced our rules. I think that the thing we could be held for, Senator, is not using due diligence in enforcing our rules.

The Chairman. Suppose the Secretary found that out. He would say to you, "Here, this man has violated your rule and circulated a false report. I want you to expel him." Or he might pick some other penalty. He might talk with you about it, and probably would, and say, "What penalty do you think we ought to inflict on that man?"

Mr. Gates. The penalty would depend on the rule itself, and not on what the Secretary said. But before we could be designated as a contract market we would have to have rules that he would approve, whose tendency would be to prevent that thing and whose tendency would be to punish the man who was guilty.

The Chairman. Your organization is anxious to do that very thing, is it not?

Mr. Gates. Yes, sir.

The Chairman. Suppose that occurred and there was nothing in the bill that gave the Secretary power to do anything. You would not be required to punish this official. But if he would say to you, after he had taken it up with you, "If you do not punish this man, I am going to suspend your charter," would not that be the exercise of a power that has to be lodged in the Secretary in order to give effect to any rule or regulation in case any board of trade refuses to obey?

Mr. Gates. If you think we can not look after ourselves; yes.

The Chairman. Well, if you can look after yourselves, you do punish that man who has violated the rule. You are not in any danger from the Secretary, assuming that he is a sensible man.

Mr. GATES. During the past 20 years we have been making rapid progress toward the elimination of these things ourselves. We have already made a stride in this thing.

The CHAIRMAN. I am not questioning that. I am not saying that you are a lot of disreputable men.

Mr. GATES. This may bring it a little sooner.

The CHAIRMAN. The point I want to make is that you are objecting to these regulations, and so are other people in the grain business. It is up to Congress, it seems to me, either to do nothing or to make a law that will give somebody the power to make it effective. It would be perfectly foolish for us to say in a statute, "It is hereby declared illegal to steal a horse," and stop right there. If everybody were honest and nobody stole, it might run along for generations, and nothing would happen; but if somebody did steal a horse and you cited that law, he would only laugh at you. Somebody must be given authority to enforce it.

Mr. GATES. Yes; some one must be given authority to enforce it; but we want to be dead sure we know what it is we are trying to enforce.

The CHAIRMAN. I agree with you.

Senator MCNARY. May I throw out this suggestion, Mr. Chairman?

The CHAIRMAN. Certainly.

Senator MCNARY. If this section provided that in case the governing board disseminated false or misleading or inaccurate reports the Secretary of Agriculture might suspend them, or if any member thereof did, he might suspend the member, that would modify it in a way that you think might be very much stronger and less injurious to the board.

Mr. GATES. Well, why not make, in section 6, the board responsible for the enforcement of its rule? If the present rules are not satisfactory to the Secretary, we shall have to pass more stringent rules before we can get a designation as a contract market. I mean paragraph C of section 5.

The CHAIRMAN. I think it is the idea of this law to make you responsible.

Mr. GATES. You allow 60 days for that. I do not think it can be done in 60 days. Section 11, I think, says it goes into effect in 60 days. More time than that is going to be required just to try to work out the best things in cooperation with the Secretary. We will have to be sure, before we apply as a contract market, that our rules are in such shape that they will be approved by him; otherwise we will not get our license.

It is impossible to continue manipulation for any length of time on the down side, because, while it is true that a man might temporarily manipulate downward, he has made a contract to deliver, and it is a good deal easier to punish the short than it is to punish the long. If he is right in his conception of the trend of things, then he can win out. There is not any one who can stop him. But the man who has to fill his contract within a certain time can not permanently affect value.

Senator CAPPER. When the tendency of the market is naturally downward, can not the bear influence on the market aggravate that tendency through manipulation?

Mr. GATES. I think that might be done, Senator, if you refer. for instance, to the general economic situation last summer and the general trend downward. It might have been possible for a man to have sold stuff to have helped that decline; but Mr. Barnes's charts very clearly showed that the decline had not, except when public confidence was distributed by some particular reason in the grain business itself, been as rapid as it might be supposed to have been.

In other words, speculation has a supporting influence all the time in the market; that is, the bulk of it. Ninety-five per cent of the people who want to get in the market want to get in on the buying side first, and the speculative trade this last year has taken an immense burden of loss in making the decline gradual, because for every little decline that occurred or every big decline that occurred there were a great many people who had cushioned that decline all the way down.

Senator CAPPER. Mr. Gates, is there not a sort of branch board of trade over on Sherman Street?

Mr. GATES. No, sir. It is a separate organization called the open board of trade, which has a charter from the State of Illinois.

Senator CAPPER. Is that conducted very much as your board of trade is?

Mr. GATES. I should say that they would not be able to qualify as a contract market under this law.

Senator CAPPER. This law, if enacted, would put that concern out of business, probably?

Mr. GATES. Yes, sir; and with slight changes in the law I think it could be made an excellent national antibucket shop law. We have spent about a half million dollars in the last 30 years to put the bucket shops out of business, and we have not had any help from this sort of legislation, but they are out of business now. This would prevent their coming back if we can make a little change, which I shall be glad to call to your attention a little later.

Senator CAPPER. How many members are there of this open board of trade on Sherman Street?

Mr. GATES. I do not know; I have never been there in my life.

Senator CAPPER. It is quite an extensive business?

Mr. GATES. No; it is a comparatively small business. I think there is a portion of volume 5 of the Federal Trade Commission's report that deals with that. I did not pay any particular attention to it, because I did not have time. I have not had time to thoroughly study these reports.

Senator CAPPER. You say they are not doing what you would call a legitimate grain exchange business?

Mr. GATES. I would not say that, sir. I would not care to become a member of it, but they hold a charter, and I do not care to criticize their standing, sir, at the present time.

Senator CAPPER. In all probability with this law effective they could not go on doing business, could they?

Mr. GATES. I do not believe they could qualify as a contract market.

You suggest a remedy to stop this manipulation downward. If you have a limitation of trade of course you must have it on both sides. That is, you can not say to one man, "You can buy a million bushels," and to another man, "You can not contract to deliver a million bushels."

That would be unfair under the law, as near as I can understand it.

Senator McNary. Is that in this law?

Mr. Gates. I was just going to show you how it would work out.

Senator McNary. What page is that?

Mr. Gates. You will find that in paragraph D of section 5, where it says, "including a reasonable limitation," or words similar to that. If you put such a limit on, as I understand the law, it must be put on now by the board of trade itself, probably in consultation with the Secretary.

Senator McNary. Some discussion was had in the hearing before the House, and a suggestion from the lips of the Secretary, I think, that a million bushels was the limitation.

Mr. Gates. There have been various limits.

Senator McNary. You believe in the total elimination of the words "including a reasonable limitation"?

Mr. Gates. I do, for the reason that it does not seem to me possible to have a thing of that kind work well. I do not believe there is any man or any group of men in the country who have wisdom enough to administer a thing of that kind. For instance, last fall when there was a declining tendency in the market, the administrative officer would undoubtedly have welcomed purchases as high as a million bushels or 5,000,000 bushels in an effort to stem that decline; and yet, if those contracts had at that time been made for May delivery, any man who made such a contract, and having the approval of the Secretary, would be all right in doing it, and would have tied up the markets this spring in such a way that you could not have remedied it at all. There would not have been anything but a corner any way you looked at it. A limit that was perfectly satisfactory at one time—that is, last fall—is absolutely impossible this spring because of the changing conditions. I question whether you can put a limit on it, and if you intend by this bill to say that the Secretary of Agriculture may at any time tell a man to reduce his contracts, you are delegating to him the power that the Constitution gives only to you to interfere with contracts.

I do not believe you intend to delegate that power to him to interfere with the obligation of contracts, but if he were to try to interpret it reasonably at different times he would have to have such a power. What I mean is this, that even with a 200,000-bushel limit on, which we had during the war at certain times under the Food Administration, we found that it was at times too high because of the transportation situation.

Senator Kendrick. I move that the committee adjourn until 10.30 o'clock on Monday next.

The Chairman. Without objection, the committee stands adjourned until next Monday at 10.30 o'clock a. m.

(Whereupon, at 4 o'clock p. m., the committee adjourned until Monday, June 6, 1921, at 10.30 o'clock a. m.)

FUTURE TRADING IN GRAIN.

MONDAY, JUNE 6, 1921.

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE AND FORESTRY,
Washington, D. C.

The committee was called to order by the chairman (Senator George W. Norris) at 10.30 o'clock a. m.

Present: Senators Kenyon, McNary, Capper, Keyes, and Norbeck.

The CHAIRMAN. All right, Mr. Gates, you may proceed.

STATEMENT OF MR. L. F. GATES, OF THE FIRM OF LAMSON BROS. & CO., CHICAGO, ILL.—Continued.

Mr. GATES. Mr. Chairman and gentlemen, we were discussing the general characteristics of the bill when the hearing adjourned on Saturday, and I find that I have missed speaking about section 5, paragraph (b), in regard to records and reports.

I think, in a matter of this kind, it is the wish of every fair-minded man to make these records and reports as little burdensome as possible.

The grain trade has and keeps its records, but the matter of reports, if in such detail as might be required under this system, would be extremely burdensome, and especially for the members of the exchange who also do a very large country business.

I think some of the people who have already testified have called attention to that matter, and I think paragraph (b) of section 5 might well be revised as that it might be as little burdensome as possible.

We are now, under the war-taxing measures, compelled to keep our records in forms prescribed by the Bureau of Internal Revenue of the Treasury Department and, of course, there should be some harmony between them and the records to be kept in this matter. We have to make our reports each month to the Bureau of Internal Revenue, attaching stamps for all sales for future delivery made during the previous month.

Senator CAPPER. Would this provision here call for any more detailed report than you are making for the Internal-Revenue Department, do you think?

Mr. GATES. We can not tell anything about it. It depends entirely on what the people acting under the Secretary of Agriculture may ask us to do, and oftentimes people care nothing for the cost and burden of that sort of thing and ask for a great deal of useless information. For instance, it should not be of interest, and would not be of any particular help, to have a man who has a line of a hun-

dred country elevators report, as this bill might require, on every wagonload that he buys and the details of it.

Senator CAPPER. It is hard to put in a statute, though, the kind of report it might be necessary to have.

Mr. GATES. But my suggestion would be that we be required to keep our records and make reports from time to time as the necessities of the situation might seem to the Secretary of Agriculture to justify, rather than to send in the details of every transaction that we make all the time, which would not be of any use to him under normal conditions, and it would only be necessary from this viewpoint, as I see it, when there is some emergency which requires his special attention.

The CHAIRMAN. Your suggestion is that you be required to keep the records properly, and that you make reports as he might call for them?

Mr. GATES. My suggestion is that if this is to go in at all, it should be so stated.

The CHAIRMAN. Yes.

Mr. GATES. That is, if it is going to be necessary to make any reports at all, that they be only required when he thinks the public interest demands it, rather than to make continuous detailed reports unnecessarily.

The CHAIRMAN. Yes.

Senator CAPPER. Well, it would not be a very great burden to have this information available, would it?

Mr. GATES. Well, it is always kept by the members, Senator.

Senator CAPPER. Yes.

Mr. GATES. The records are always kept. The making of reports, as you will see, is an added burden which should not be called for except in case of emergency. If it is required that the exchanges shall pass such rules as would require their members to keep the records, then the reports could be called for as the Secretary of Agriculture might deem the public interest required.

I think one of the gentlemen said that this was just the start; that this bill was not intended to be a full solution. It was just a start. Now, if this is just a start, I do not know what you can possibly be aiming at, that is, what the framers of the bill might be aiming at, except complete control, which, I believe, is entirely unnecessary and un-American.

The CHAIRMAN. Mr. Gates, I think it should be said in this connection that you probably have a misconception of what is intended. When it is said that this is a start, it does not mean that it necessarily will go further in future legislation. It may mean that there will be some things in here, like your reports, which will be found to be unnecessary and can be cut out in the future. If it appears, however, in some respects that we ought to go further, then I suppose we would go further. I do not think you have the right idea of what the committee want you to infer from the statement that this is just a start. It will not necessarily follow that it is desired to have any more complete control than this bill provides for. It may be just the reverse.

Mr. GATES. I had not understood the committee to express any opinion on it, one way or the other.

The CHAIRMAN. I thought you were referring to the members of the committee.

Mr. GATES. No; one of the other witnesses spoke of this as simply a start.

Senator CAPPER. I do not think the members of the committee had that in mind.

The CHAIRMAN. No.

Senator CAPPER. That it is just a start.

The CHAIRMAN. I think, to some extent, the committee was in the dark, and I think it can be safely said that you people are in the dark also as to what is admitted to be desirable in some ways at least, and you do not know just how to bring it about.

Mr. GATES. We agree on that, Mr. Senator, I think.

The CHAIRMAN. And we do not, either; and if this bill accomplishes what those in favor of it believe, it will enable us to decide, and it will enable Congress to decide, what, if anything, more is necessary, or whether we have in some respects gone too far.

Mr. GATES. It was also said by the same gentleman, I think, that this was for the purpose of getting information. Now, if information were lacking, that might be desirable; possibly it is desirable; but I wish to say that the information that has already been secured has not been made public.

Some years ago there was an investigation by the Department of Agriculture of the Minneapolis Exchange. The results were pigeonholed and never were published. Four years ago, at the instance of the President, the Federal Trade Commission and the Department of Agriculture jointly were authorized and directed to investigate the grain trade. It is my understanding that the part of the report made by the agents of the Department of Agriculture has been turned in, but the results have not been published. Even the Federal Trade Commission portion of the report, which has cost hundreds of thousands of dollars, is not yet available; that is, as far as the conclusions are concerned. There are about seven volumes, three of which have been issued, but no conclusions have been published.

Now, my thought is this, that in legislating there should be the advantage of looking at such reports. The report is only partially before us from the Federal Trade Commission, and these reports by the Department of Agriculture, for which the information is now desired, have not been published at all.

Senator CAPPER. Do you remember whether Mr. Weld had anything to do with that investigation made by the Department of Agriculture some years ago, the one that you speak of?

Mr. GATES. The Minneapolis report was made, I think it was, by Mr. Weld, who at that time, as I remember it, was connected with the University of Minnesota in the department of economics.

When we come to paragraph (d) of section 5, I believe all that it would be necessary to do for the purpose of this legislation would be to require the governing board to take steps to prevent manipulation.

We have already explained to you that we did not know the immediate solution for the recently suggested thought that there may be manipulation downward. To require a limit on the trades to be fixed, as I understand that paragraph, by the boards of directors of our exchanges, puts on them a burden which they would not feel wise enough to assume, to require them to place such a limitation. If you must have a limitation on trades, then should not the Secre-

tary of Agriculture, who is given the privileges and powers under this act, assume the responsibility of saying when the limit shall be placed? That is, you might insert some such words as these: "At such times as the Secretary of Agriculture."

Senator McNary. You discussed this subdivision on Saturday afternoon, and I thought you would be content if the words which I quote now, "including a reasonable limitation" were removed from the section.

Mr. Gates. I say I think that should be removed, but if you insist on keeping it there, if you think it wise, you should also have the words requiring the Secretary of Agriculture to say when a limit should be put on, rather than leaving it to us and giving us the responsibility, because we do not think we are wise enough to do it.

Senator McNary. You think the Secretary of Agriculture should specify the limitations rather than the board?

Mr. Gates. Yes; the responsibility should be on him.

Senator McNary. In other words, you would say on line 19, after the words "including a reasonable limitation specified by the Secretary of Agriculture upon the total quantity of grain," and so forth.

Mr. Gates. Or some such words as these, "including at such times as directed by the Secretary of Agriculture a limitation." Something of that sort might be added.

Now, we come to paragraph (e). That is a paragraph that it seems to us is a misuse of the taxing power of the Government. I think the people who framed our Constitution would turn over in their graves if they thought the power given to Congress to raise revenue were to be used to compel a private corporation to take into its membership anyone that the Secretary of Agriculture might tell us to take in, and to give him the further power to make our rules and regulations as specified in that proviso in paragraph (e).

Senator McNary. Then you are objecting to that provision which makes it possible for cooperative associations to become members of the board?

Mr. Gates. Yes, sir.

Senator McNary. You would not have anything to do with them?

Mr. Gates. I would not have any such power of Congress used in this way, and I believe that I can make clear to you that it is not fair of you to ask us to do that.

I am not a lawyer, but our charter provides that we may admit or expel anyone we see fit. The charter reads as follows:

> Said corporation shall have the right to admit or expel such persons as they may see fit, in manner to be prescribed by the rules, regulations; and by-laws thereof.

To tell us that we may not do so is contrary to the provisions of our charter, and it seems to us that would be unfair.

Now, let me discuss briefly this cooperative situation. The relationship between President Howard and myself has been very pleasant. I have a great deal of respect for him. We have a great deal of sympathy with his movement. Last year I wrote to President Howard asking him if he did not think the time was about ripe for asking a number of his members to join our institution, to become members of our board of directors, and help us work out these problems.

When the Illinois Agricultural Association first took up the matter of grain marketing, I wrote to the president of that association and told him that if we could be of any assistance whatever in connection with the formulation of his plans we would be very glad to throw things open to him and let him come in, and we would try to be as helpful as possible.

There was a time in the consideration of this matter when I thought we might admit, reasonably admit, representatives of the cooperative associations to come in, even though they distributed their profits on the patronage basis; but developments since that time have changed that idea for this reason:

Fundamentally, these are two different systems of marketing. Our system is one that is based on extreme competition and depends for its success on the service it gives.

The other system depends for its success on the patronage dividends and is the elimination of competition.

I have attended meetings of these people, and the whole thought is to eliminate competition between the farmers themselves and then eliminate competition between their marketing system and the other marketing system, and the contracts that they wish to send out and have signed are contracts which monopolize immediately the business of the companies who become members. They pledge themselves to send all of their grain to this cooperative marketing system.

Now, that is not based on service, because they have not had any service from them yet. It is based simply on the promise to rebate a portion of the commissions—that is, to pay them patronage dividends.

Now, these two systems might reasonably compete on opposite sides of the street, and the one that survived would be the one that proved to give the best service, proved the most economical, and was best for the people of the whole country; but I do not believe it is possible for them to compete with one as an integral part of the other on a preferential basis. Do I make myself clear on that? The two systems are fundamentally different.

Senator McNary. You are speaking of the cooperative association that pays no dividends, but simply distributes the profits, less the cost, to the members of that association?

Mr. Gates. Yes, sir; and that depends for its business on binding its members by contracts to ship all of their stuff to the selling agency regardless of service.

Senator McNary. Then, you think, when they come in competition with those who are members of the board, and who have no such relationship, it is unfair competition required by this bill?

Mr. Gates. Yes, sir. For instance, if the cooperatives were to join our association on the basis of distributing all their profits to their members on a patronage plan, I, as a member, would think that I had a perfect right to go out after business on the basis of giving to the shipper half of the profits, we will say, or all of the profits, if I wanted to. That would give me an advantage over every other member. I would get the remaining business. There would be just two of us left, one a cooperative and the other the concern that was handling the business of everybody else. Everybody else would be shut out from doing that sort of thing.

Now, those two things can not live as parts of the same system. They are two separate systems. They are two separate theories of marketing. In that case they could compete on opposite sides of the street, and the one that gave the best service would in the long run survive.

We are perfectly willing that there should be competition, but to assist them on a preferential basis is something that I believe you will have to compel us to do, because I do not believe we will do it voluntarily, as our members are very jealous of their rights, and every fellow thinks he is as good as any other fellow and entitled to just as much in the way of privilege.

Senator CAPPER. How do you construe this bill to mean that they are to be admitted on a preferential basis?

Mr. GATES. I mean that they are to be admitted, regardless of our rules, if the Secretary of Agriculture so directs.

That last portion of paragraph (e) either means that the board members, who are supposed to make the rules, simply become a rubber stamp for the Secretary of Agriculture, or else it means that the cooperative associations who are admitted under this act shall not have to obey the rules that somebody else has to obey.

The CHAIRMAN. Now, what rules do other fellows have to obey that they do not have to obey?

Mr. GATES. The rule in regard to the rebating of the commission.

The CHAIRMAN. They would not rebate any commission.

Mr. GATES. Oh, that is the whole basis of their coming in. That is the whole basis of their theory of building up their business—by promising to rebate commissions. They call it a patronage dividend.

The CHAIRMAN. Yes; that their commissions should go into their profits.

Mr. GATES. That would be the only profit they would have.

Senator CAPPER. What profit would any other concern have?

Mr. GATES. Just that same profit, in acting in that capacity, acting for the country shippers.

The CHAIRMAN. Those profits would go into the treasury of their organization, and at the time they distributed the profits they would be divided up the same as all other profits. The point I can't understand is why you want to say to some organization that comes in, "You shall divide your profits in a certain way; we have a way of dividing our profits, and you will have to divide your profits in the same way." You divide yours according to capital stock, and they divide their profits according to the business done with them by their members.

Mr. GATES. Mr. Chairman, you disregard the fundamental thing. The cooperatives in soliciting business have formed the United States Grain Growers Co., an institution without capital but authorized to borrow very large sums—no capital whatever. The basis on which they want to compete is to hold out the inducement of patronage profits. They have not rendered any service. They are proposing to compete with us on the basis of distributing patronage profits, and are asking their members to bind themselves to send all of their grain to their company regardless of service. Now, it is very possible that they might lose more in the way in which their grain was marketed than they would get out of the patronage dividends.

The CHAIRMAN. Now, you say their only profits are their commissions?

Mr. GATES. Yet they would have a monopoly of that business.

The CHAIRMAN. But you say their only profits are their commissions. If that be right, where would there be any danger of their losing anything?

Mr. GATES. I am not saying anything about their losing anything. I did not say anything about losing anything.

The CHAIRMAN. But all through the testimony here that has been one of the objections that have been made, "We do not know anything about the financial responsibility of these people," or something of that kind, and they have not capital, or not enough capital. Now, if the only business they have is to act as commission agent for their own corporation, what difference does it make about their financial responsibility?

Mr. GATES. It makes a lot of difference to people who buy grain from them whether they have any responsibility or not.

The CHAIRMAN. If their profits are only their commissions they will not sell anything except as an agent for the owner; hence they are not responsible.

Mr. GATES. We think they ought to be responsible. If they are getting our business or the business of other members of the board they ought to do business on the same basis. We hold all members responsible for the contracts they make.

The CHAIRMAN. If you, as a member of the board, would sell 1,000 bushels of wheat for me, acting as my agent, and you dispose of that wheat, the only thing you would have would be your commission.

Mr. GATES. I first give up my name. My name is back of it. I am the only one who is looked to for that transaction.

The CHAIRMAN. You would not have any objection yourself if a farmers' cooperative institution sent you a lot of wheat to be sold, to act for them; you would not inquire whether they would be all right financially or not?

Mr. GATES. Yes; we would, before we paid the draft on their shipment.

The CHAIRMAN. It would not be necessary for you to invest any money yourself?

Mr. GATES. I would have to invest money on the shipments that are made to me.

The CHAIRMAN. If I ship you wheat you would investigate my financial responsibility before you would act as my agent?

Mr. GATES. I certainly would, unless you sent me a bill of lading without draft.

Senator KENYON. And if you knew he was a Senator you would want cash in advance.

Mr. GATES. Of course, I do not mean to reflect on anybody.

The CHAIRMAN. But let us say that I would turn over a carload of wheat to you to sell, and you would act as my agent. You would have the wheat, would you not, if you sold that to Senator McNary, now?

Mr. GATES. Well, in the ordinary course of business everyone who ships grain to market draws on the bill of lading through his local bank.

The CHAIRMAN. Yes.

Mr. GATES. So as to get the money to go and buy some more.

The CHAIRMAN. Yes.

Mr. GATES. That is one of the advantages of the system.

The CHAIRMAN. Yes.

Mr. GATES. Now, in the case of people you are doing business with right along you are perfectly willing to make those advances, even though there may be in the individual case overdrafts on particular cars, but to a stranger you would not make an advance on the bill of lading, even though it purported to hold the grain that was stated, in the cars. Some cars have been sent in with a little bit of grain in them, and the bill of lading would show that there was a good deal more in them. It would be fraudulent on the face of it.

The CHAIRMAN. Yes.

Mr. GATES. Oftentimes, there are forged bills of lading that are accompanied by drafts, and sometimes the trade is caught on those things; so that the trade is careful to investigate the standing of the man who makes the draft.

Senator NORBECK. Let me ask you a question there, Mr. Gates: What is the system in the way of making a draft? It is to draw approximately the whole amount, or some per cent of it, in the bill of lading?

Mr. GATES. Of course, that varies.

Senator NORBECK. What is the average?

Mr. GATES. On the average, I should say it was from 90 to 95 per cent of the value of the grain at his station at the time it leaves there.

Now, as I said, if this is to be; if, in a taxing measure, you think it is wise to insist that we admit these people on a preferential basis, then I think you should specify the exact terms on which that is to be done.

This paragraph, as drawn, would compel us to take in the officers of these corporations regardless of their moral standing or their previous financial record. I think, if you want to make the one exception in regard to patronage dividends, you should so definitely state.

The CHAIRMAN. I think that is the object. I know I had no other intention. In other words, it may be better expressed this way, that they should not be rejected for the reason that they are such a cooperative organization, distributing patronage dividends. You can require the same degree of financial responsibility and moral responsibility that you require of everybody else.

Mr. GATES. Well, would not something like this suit the case: "When the governing board thereof admits to membership thereon and to all privileges thereon on such boards of trade," and then insert "under the same terms and conditions as other applicants," and then make a new "Provided," cutting out all of this provision that you have here now, because that gives to the Secretary of Agriculture the privilege of breaking any or all of our rules, as I see it, "if the same have the approval of the Secretary of Agriculture." That is, it either means that before we be admitted as a contract market we must make any rule that the Secretary of Agriculture might ask us to make, or else it means that after these people get in they would not be required to obey our rules, unless the Secretary of Agriculture said that they should obey the particular rule that was

in question. Now, if the limitation that you want to put on is purely on the basis of that patronage dividend, and if it is true that our rule in regard to rebating commissions is the thing that is in the way, why not just say that, "provided that no rule in regard to rebating commissions shall operate to prevent the distribution to bona fide members of their patronage dividends"?

The CHAIRMAN. As I understand it, that is what you are objecting to now.

Mr. GATES. We think the whole thing is objectionable to us.

The CHAIRMAN. What I mean is the rebating of commissions?

Mr. GATES. Yes, sir.

The CHAIRMAN. Why not put in there that no associaton should be rejected or prevented from having membership in there on the ground that they provide for the distribution of patronage dividends?

Mr. GATES. Well, that ought to be safeguarded somewhat, too, but that, in general, is what I am suggesting. If you are bound to tell us to do this thing which we protest against and which we think unfair, then you ought to do it in so many words, with regard to the thing which we think is the basis to which there is objection at the present time.

The CHAIRMAN. You heard Mr. Barnes's testimony, Mr. Gates?

Mr. GATES. Yes, sir.

The CHAIRMAN. In which he said he thought these organizations should be admitted?

Mr. GATES. He said he was very sympathetic with the movement and thought we ought to give them a chance under these conditions.

Now, as I explained, I was at that stage in thinking about this thing, and I so stated before the National Farmers' and Grain Dealers' Association. I thought maybe we would work out something. That was the statement that I made to them, and I thought they might arrange to do that if they would confine that distribution to their own members. But the developments since that are these, that they are forming cooperative selling agencies or corporations, and the terms on which they are forming them are such as lead me to think that it would be impossible, because they expect to monopolize the business of their members, not on a basis of service at all, but on the promise of giving them a patronage dividend. You see what I mean? It is fundamentally different. The two systems are fundamentally different. They are two different theories of marketing.

Senator MCNARY. Is it not true that the grain exchanges are asking the cooperative associations to become members now?

Mr. GATES. If they are stock organizations; yes, sir.

Senator MCNARY. And do not prorate their profits back to the members of their associations?

Mr. GATES. Yes, sir.

Senator MCNARY. And it is this prorating back wherein you make a distinction between those people and nonmembers?

Mr. GATES. Yes, sir.

Senator MCNARY. And you think that gives them a preference or a right or an advantage?

Mr. GATES. Yes; and it does give them this preference, Senator, because they expect to hold their business on the basis of offering

them the patronage dividend, and in that way to get the whole of their business.

Senator McNary. Well, you know, there is a great cooperative movement throughout the country, and all of these cooperative organizations—and I know that in particular from being a member of one of the largest in the Northwest and having been president of one of them for a number of years—prorate back what you call dividends or return their profits to their members, and the cost of distribution or marketing is the only sum that is taken from the members. They do not realize a profit, but they realize the same thing in the increased price that the producer gets for his product.

Mr. Gates. Well, that is the theory.

Senator McNary. Those are the essential elements of the cooperative organization.

Mr. Gates. Yes.

Senator McNary. If you refused them members doing business in the manner that I have detailed, you would cut out the essentials of the cooperative organizations, would you not?

Mr. Gates. Yes; that is, as cooperative organizations are now spoken of.

Senator McNary. Yes.

Mr. Gates. That is, on the patronage basis. We have two members, two cooperative members now, one being the grain growers of Canada.

Senator McNary. Then, as to those who operate on the nondividend, nonprofit-sharing provision of their constitution, you would not permit to become members of the grain exchanges?

Mr. Gates. Not as it is lined up now, because they are tying up people without giving any service whatever. They are binding them up to send all of their business to them.

Senator McNary. Yes; I get that. I wanted to see just how far you would go.

Mr. Gates. Yes.

Senator McNary. Then, here the farmers bring in their grain and put it into one large pot, we will call it, or pool, as it is called in the fruit business, and sell it as such, advantage is taken of the cost of distribution, the cost of the operation of that plan, and the rest of it would go to the farmer, and you would not have people that do business that way, or associations, in the exchange?

Mr. Gates. Yes, we would, Senator, but we say that they should make it on the basis of service. Suppose a local unit of a cooperative association in the country is privileged to send its grain to the fellow that serves it best. Suppose the experience of the manager of one of these local houses is that Mr. B. on the board has always sold their grain to the best advantage. They watch the reports from day to day, and they know that he gets nearer the top of the market than anybody else that they ship to. I would leave that country man free to ship to whomever he might with and not give this concern that comes in on the patronage basis a monopoly of the business of their customers, regardless of competition or results.

Senator McNary. Let me give you a homely illustration, if I may: There are 25 farmers all pooling their crops of grain, harvested early in the fall, amounting to a million bushels; that organization has a cooperative nature, one of the provisions being that when this grain

is sold the farmer shall receive all the cash received on account of the sale outside of that sum which shall go to pay the cost of conducting the movement.

Mr. GATES. Yes.

Senator MCNARY. When the grain is sold the money is returned to the farmer less the sum I have mentioned.

Mr. GATES. Yes.

Senator MCNARY. Those people want membership on the exchange. Do your rules now admit them to become members, doing business in that way, and would you exclude cooperative organizations of that kind from membership on the grain exchanges?

Mr. GATES. Yes, sir; under the present rules.

Senator CAPPER. You would require all cooperative associations to incorporate and do business on a stock dividend basis; is that your idea?

Mr. GATES. Yes; and if their marketing agency is given membership then the local concerns should be free to ship their grain wherever they can get the best service, instead of having to ship their grain to that marketing agency.

Senator CAPPER. Well, I think that would be a matter for them to determine, where they wanted to ship their grain.

Mr. GATES. Well, as I explained on Saturday, we are not a public market. The only reason we have the business now is because we give the service. There is a great deal of marketing that is done directly now, and goes right past our doors. For instance, people in Iowa, of good reputation, meeting personally an eastern clientele have been able to do a good deal of business right past our door. There is nothing to interfere with that. The cooperative movement might do the same thing—build up its business on the basis of service. There are plenty of people in Chicago who have offered to lease them elevators. There is no denial of the physical facilities; but to say to us that we should admit a different theory of marketing to our institution as an integral part of that institution on a basis which no one else is allowed to compete under gives them in our organization an unfair advantage over any one else. Do I make that clear?

Senator MCNARY. Suppose that same little organization I mentioned, instead of distributing the sales price, less expenses, to members, would declare a dividend and act the same as other corporations organized under the State laws, would you then admit them to membership?

Mr. GATES. We have two such members now; yes, sir.

Senator MCNARY. What is the difference whether the farmer receives a little higher price on account of the sale of his grain or whether he receives a little less price, made equal, though, by the receipt of dividends from the operation of his association?

Mr. GATES. There may be no difference in his attitude toward it, but there is a great deal of difference so far as the exchange member's attitude toward it is concerned, because one is monopoly and the other is competition on the basis of service, and the experience with some—I have no personal knowledge of it, but I am told that the experience with some of these cooperative concerns has been that they receive less for what they sell than do other people who ship to other commission firms, but they keep their people sat by these patronage dividends.

Senator McNary. But under your own statement, ultimately, whichever way the cooperative association operates, the members of the association receive exactly the same amount for their profit.

Mr. Gates. Yes; the result is the same.

Senator McNary. Yes.

Mr. Gates. But the method is very different. That is, the result theoretically is the same.

Senator McNary. Yes.

Senator Capper. Suppose you had a cooperative association doing business in the way you suggest with, say, 500 members, and 200 of them had only a very limited interest in the association, say, $10 of stock, but each of those 200 members would ship a carload of wheat. Now, under your plan you would distribute to that member on the basis of his $10 share, rather than the volume of business that he did with the association; is not that your idea?

Mr. Gates. Well, it is my idea that the rules permit that now. Any corporation has the advantage of membership rates, any corporation ordinarily formed.

Senator Capper. Yes; but if distributed on the patronage basis, he would receive a return in proportion to the volume of business he is transacting.

Mr. Gates. Yes; but our rules do not provide for any such provision for the payment of dividends.

Senator Capper. Do you think that would be fair to the small stockholder in the cooperative association?

Mr. Gates. Well, if his marketings were larger he would have a larger interest in the company. As I say, the thing that is basically different is the two theories of marketing. You can't get away from that. I was very sympathetic with this thing, and in the first place I wanted to arrange to take in these people on this basis of patronage dividend, but the way they are going after business now—by monopolizing the business——

Senator McNary. The Secretary of Agriculture, before the House committee, suggested certain changes in this provision which the committee accepted, as I recall, and one of the changes which he suggested was the inclusion of this phrase, "associations of producers having adequate financial responsibility." That was not in the first draft of the law.

Mr. Gates. Yes.

Senator McNary. And that we included, and he felt satisfied with this provision after the inclusion of that phrase.

Mr. Gates. Yes; and there was no "*Provided*" in there at that time at all.

Senator McNary. No.

Mr. Gates. That was inserted on the floor of the House.

Senator McNary. What is your next proposition, Mr. Gates?

Mr. Gates. Section 6. While we consider it a good theory to have administration in the hands of one man, when it comes to discipline I think everyone feels better if he has a jury.

Senator McNary. What do you want to substitute for that—the Federal Trade Commission?

Mr. Gates. No, sir; but I believe there should be more than one man to determine whether or not the law has been violated, because the penalty is so severe.

Senator McNary. What would you suggest?

Mr. Gates. I would suggest that there should be a number of other men of equal rank concerned in that.

I wish to say right here, Mr. Chairman, and members of the committee, that this is not due to any antagonism to the present Secretary at all—the present incumbent. I am speaking of the office as held by any human being and am not intending to reflect in any way upon the present incumbent of the office, because we have the highest respect for him. The Secretary of Agriculture is given very broad powers under this act. He is given the power to legislate; he is made the prosecuting attorney; he is made the court; he is made the jury. Now, we object to that, and I question very much whether, under the food decisions of last February, that would hold.

Senator Kenyon. What case do you refer to, Mr. Gates?

Mr. Gates. I refer to the cases in which the decisions were announced by the late Chief Justice. I think it was the Cohen case or the sugar case that came up from St. Louis.

Senator McNary. That was the case in which they held that the price-fixing provision was unconstitutional?

Mr. Gates. Yes; because it gave to the court legislative powers, as I remember it, or something of that sort.

I also believe this: If you insist on this bill you ought to hold us to due diligence in enforcing our rules rather than actually accomplishing the results which you tell us must be accomplished. Under this some individual, whether a member or nonmember, regardless of the board, having no interest in the board at all, might bring about a situation that it is impossible for the board to prevent, and yet the punishment under this section would be entirely against the board and not the individual. I believe under this section we should be relieved of anything except due diligence in enforcing the rules which, I understand, under the previous conditions of the bill the Secretary approves, before we become a contract market, and then providing for the definite punishment of the offender in another section. That might be made a hurry-up case, because in some emergency very prompt action is needed.

Then, I would like to call your attention to section 8. Individuals are very jealous of the names of their customers. There is authority under this section to publish not only the results of investigations, but parts of reports, "Such parts of reports made to him under this act, and such statistical information gathered therefrom as he may deem of interest to the public."

Now, I wish to stress just a little the effect of that on the public mind. A man wishes to become an investor in wheat; he wants to buy some wheat; he thinks the price is too low; but if he thinks that to-morrow morning there may appear in the papers his name, saying that he has nothing to do with the grain business, that he has bought some wheat, and he is nothing but a gambler, he will be discouraged from that sort of operation. If you were to say that it should be a public record, it would have the same effect. The whole effect of this thing, as I figure it, is the effect that it will have on support for the market. It will drive trade out, and anything that drives trade out is bad for the producer.

This section 8, I believe, should be so changed as to permit the privacy of business by some such provision as you have in the coal bill. I have read that section of that bill but I have not the exact wording in my mind now, but in that section they say that they shall be protected in their trade secrets, the names of customers and such things. That is in the coal regulation bill.

Of course, the time given under this act for putting it into effect is altogether too short. They could not possibly get this thing ready in 60 days, as provided for in section 11, I think it is.

Senator CAPPER. What you ask is to have taken out the words "and such parts of reports made to him under this act"?

Mr. GATES. Well, there should be further protection of the privacy of accounts under some such language as is used in the coal regulation bill.

Senator MCNARY. Let me ask you what bill you refer to as the coal regulation bill, the one that has been passed and is now a statute?

Mr. GATES. I think it is up in the House now.

Senator KENYON. Is it the Frelinghuysen bill?

Mr. GATES. I have forgotten the name of it.

Senator MCNARY. There is one now known as the Calder bill. That came up before the committee of which I was a member, and so was Senator Kenyon, last year, but that never did become a law.

Mr. GATES. There is some such bill before the House committee.

Senator KENYON. There is a bill before the Senate, on the calendar, known as the Frelinghuysen bill.

Mr. GATES. I do not know the state of progress of the bill, but I have seen a bill in which there is some such protection of the privacy of accounts and the prevention of exposing trade secrets and other things of that sort. I will try to find it for you, Senator, if I can.

Senator MCNARY. Yes.

(Senate bill 1807 is referred to.)

Mr. GATES. I was asked the other day by one of the Senators what changes I would suggest to make this an antibucket-shop law.

I would like to indorse, in general, what Mr. McDermott said if, in going over the testimony, I have it correct, which is practically this:

Page 1, section 2, line 11, as suggested by Mr. McDermott, after the period, insert: The term "future trading," as used in this act, shall not include any sale of cash grain for deferred shipment.

Senator MCNARY. Just read that slowly, please.

Mr. Gates (reading):

The term "future trading," as used in this act, shall not include any sale of cash grain for deferred shipment.

Senator MCNARY. All right.

Mr. GATES. And then, on page 2, section 4, lines 21 and 22, after the word "delivery," line 21, strike out, "made at, on, or in an exchange, board of trade, or similar institution or place of business." That was put in, as you will understand, to protect the cash transaction, as Mr. McDermott expressed it, that laid the way open to some dealing outside. Now, if you do that it would make the tax applicable everywhere, and by putting in the definition of future trading as excluding the cash grain transaction for deferred shipment

you would have the two together. This one part would not be sufficient, possibly, but the two together would prevent any possibility of having future trading outside that was not taxable.

Now, there are some things about this bill that I like, despite the fact that I am opposed to the whole proposition of legislation, particularly in such form as this. There are some things about the bill that I like, and that is the at least inferred recognition of hedging as necessary and of speculation as incidentally necessary to that hedging market.

If you feel that you must have legislation—and of course you are to be the judges of that, as we might feel selfishly that there should not be any legislation, and you, in looking at the thing from the national interest, feel that there must be something—and if it must be in this form, then let it be such that we can, in good faith, make an attempt to work under it. Let it be as little burdensome as possible, or as far as it can be in this form, because the publicity attendant upon any such legislation, unless very carefully handled, is likely to bring about just the opposite of the effect that you are aiming at. What I understand you, in considering this matter, are aiming at, is the betterment of conditions. What you may get, unless the publicity is handled very carefully, is the opposite effect, which can not but make a bad situation worse. For instance, in the newspaper reports of Mr. Van Dusen's testimony the other day, we have the statement, "Wash sales a puzzle. Witness in grain exchange hearing fails to enlighten Senators." That is all the publicity there is on it. Everything else that Mr. Van Dusen said went by the board, and that is the thing that stands out in the publicity. Now, it is the spectacular that the press wants.

Senator McNary. You ought to go after these newspaper reporters.

Senator Kenyon. The gentlemen at the other end of the table.

Mr. Gates. The publicity of this thing, when it takes the form of saying, "An antifuture bill passes the Senate," and things of that sort, will still further drive the investor from the market, to the detriment of everyone connected with it.

Senator Kenyon. How are you going to control the newspapers in that kind of business? We would be glad to know that.

Mr. Gates. We feel about this bill just as the newspaper men would feel if there were some law passed saying that the Postmaster General should have the right to exclude any paper from the mail if anything it published did not suit him.

The Chairman. We did pass that kind of a law a few years ago.

Mr. Gates. Yes; I know. And I know how the newspaper people felt about it—and to punish the whole lot of newspapers for any expression of an individual. That is about what occurs in this bill.

There is nothing so disturbing to confidence as uncertainty, and if there is to be anything done, I think the more carefully it is done, the more fairly it is done under present conditions, and the more quickly it is done, for that matter, the better it will be.

That, Mr. Chairman, concludes what I have to say. I want to thank the committee for the courtesy of their attendance, and would like to ask the privilege of making such corrections in the record as will not change the character of the testimony.

Do you wish to ask any questions?

Senator CAPPER. I have a chart here which shows the wheat market for the month of December, and it shows that on the first day of December wheat went down 12 cents and up 10 cents; on the second day it went up 17 cents and down 11 cents; and on the third day it went down 12 cents and up 8 cents. Now, you are probably familiar with that December situation. I would like to know just why, in your judgment, there should be that violent fluctuation inside of a period of three or four days in the market that, under your system, you say, tends to stabilize and improve market conditions?

Mr. GATES. But, Senator, you can not stabilize values until you stabilize conditions. When conditions are disturbed your market will be disturbed, and it is bound to be disturbed. The violent fluctuations are often attributable to a light trade instead of a large trade. When there is a narrow market, the fluctuations are always more violent than is the case when there is a large trade.

Senator MCNARY. Yet, Mr. Gates, I notice on this chart to which your attention was called, it happens that on the 1st of May wheat was $1.55, and on the 6th of May it reached the point of $1.80 per bushel. That indicates a raise in six days of 25 cents. Would any law such as this have prevented that wide fluctuation?

Mr. GATES. I do not think it would have prevented it at all.

Senator MCNARY. Would it, in your opinion, have had any effect whatsoever in preventing this spread?

Mr. GATES. No; I do not think it would have anything to do with it.

Senator MCNARY. Between those dates?

Mr. GATES. No; if anything, it would be likely to make it worse, because the trading would be more narrow than it was. You see, as these contracts reached maturity the speculative trading gradually dropped; and there is a cleaning up of the hedges, which do not exactly match at any time. That is, an order comes in to sell out some long stuff on a hedge, and then an order comes in to buy some, and a very small quantity affects the market out of proportion to its size.

Senator CAPPER. Did the law of supply and demand work on these six days?

Mr. GATES. Yes; I can not see any question about that. The law of supply and demand works every day, but it works through human agencies, Senator. It is not anything that is automatic. It works through human agencies, and anything that prevents the operation of the law of supply and demand will affect the market.

The CHAIRMAN. Is that all, Mr. Gates?

Mr. GATES. That is all.

The CHAIRMAN. I wish to say to the members of the committee that I have several letters here, one of which is from Mr. Moffitt, president of the Merchants' Exchange of St. Louis, in which he sets forth in writing his comments upon this bill. I will ask the reporter to include that in the record of the hearings.

I also have a letter from Mr. C. A. Magnuson, president of the Northwestern Elevator Co., of Minneapolis, Minn.; a letter from Wells-Abbott-Nieman Co., of Schuyler, Nebr.; and one from Mr. Updike, of the Updike Grain Co., of Omaha, in which they set forth

their ideas in writing. I will ask the reporter to insert these in the record.

(The letters referred to are here printed in full as follows:)

As president of the Merchants' Exchange of St. Louis, one of the leading grain exchanges of the country, with a membership of 830 members, doing business in cash grain of about 100,000,000 bushels a year—to be exact, our market handled 94,000,000 bushels of cash grain in 1920—I wish to enter our protest against the enactment of H. R. 5676 in its present form, feeling that it will do serious injury to the legitimate grain trade unless it is modified in a considerable degree.

A broad, open, liquid market in grain futures is, I think, essential to the economical handling of grain in this country, and to unduly restrict or destroy such a market would be of greater injury to the farming community than to any other class of citizens. Future grain markets as conducted at the present time enable the farmer to dispose of his grain at any day or any hour in the year. Grain can be turned into cash quicker and on a more satisfactory basis than any other commodity in the country. This is due to the method of transacting grain business as established by the exchanges. The elimination of the speculative market in grain as conducted at the present would not destroy speculation in grain. It would simply shift the speculative burden from the trade in future contracts to speculation in the cash article. Every man in the cash grain trade or milling trade would necessarily become a speculator should the miller or grain handler be forced to carry stocks of grain without the benefit of the hedge. He would necessarily be forced to do business on a merchandising basis and exact a merchandiser's margin of profit. As conducted at the present, grain is handled for a maximum of 1 per cent commission. The miller or merchant handles his volume of trade on an extremely narrow margin of profit on account of the fact that he is constantly protected in the shape of hedges or he is compelled to compete with men who are constantly protected in this manner. The additional cost of handling the grain crops of the country without the speculative market would fall on the farmer and the consumer.

The bill provides in section 5, paragraph (b), for a report to the Secretary of Agriculture showing the details and terms of all transactions entered into by the board or members covering cash grain and futures. This provision would be, in our judgment, extremely burdensome to the exchanges, and, as far as cash grain is concerned, the record provided would be of absolutely no value to the Government. We therefore suggest that the provision requiring the reports on cash grain should be eliminated.

We feel Congress should act with great caution in entrusting into the hands of one man power the purpose and intention of which is to do good, but which if misapplied or arbitrarily used would do serious injury not only to the business over which he is given power, but to the country as a whole.

We therefore urge upon you to most seriously weigh the matter of this legislation before submitting this bill to the Senate.

N. L. MOFFITT,
President Merchants' Exchange of St. Louis.

NORTHWESTERN ELEVATOR CO.,
Minneapolis, Minn., May 27, 1921.

Senator G. W. NORRIS,
United States Senate, Washington, D. C.

MY DEAR SENATOR: I have before me a copy of H. R. 5676, known as the Tincher bill, or rather the Capper-Tincher bill. The bill may produce a remedy for an evil, but it is, I think, subject to criticism in the fact that it makes of the Secretary of Agriculture an autocrat of the largest business in the country, of which Congress should be the regulator and judge as to the application of general principles. Therefore, I would make one suggestion in regard to the bill.

So far as seeing that the rules of the grain exchanges are concerned, that should be supervised by someone to see that they were uniform, so far as they are applicable to future trading, but those rules should embody a fixed limit of speculative trading, and that fixed limit should apply both to the seller and the buyer. If the limit was found to be incorrect it should be changed legislatively, but it should not be changed by an individual fiat over night, and no power to do that should be granted by Congress to any individual.

Whether the limit should be fixed by Congress at 200,000, 500,000, or 1,000,000 bushels, is up to Congress, but it should be a fixed limit and the rules of the exchanges

should be made to conform to it. There would probably be presented to the Secretary of Agriculture by this bill, by different people, a theory that the limit should be advanced or increased by one part and decreased by another. Pressure would be brought to bear on both sides, whereas if the limit was fixed in the law and the rules in the exchanges were made to conform with it, there could be no pressure brought to bear on the Secretary of Agriculture or the man put in charge, because the limit would be fixed by law and that is what should be done. I have previously called your attention to the bill introduced by Senator Gronna in the last session, which fixed the limit at 500,000 bushels speculatively.

Yours, truly,

O. A. MANGUSON.

SCHUYLER, NEBR., *May 13, 1921.*

Hon. GEORGE W. NORRIS,
United States Senate, Washington, D. C.

DEAR SIR: Referring to the Tincher bill which is to be acted upon very shortly, we understand that the bill before the House embodies a degree of control far exceeding that suggested at any time during the recent hearing; that it provides for intolerable governmental interference in business, and for that reason should not be passed in its present form. The exchanges are perfectly willing to be made responsible to the Government for the conduct of future trading operations, but the control of such operations by any department of the Government is impracticable and unnecessary.

We would not know what we would do if it were not possible for us to hedge our wheat at times when wheat is moving from the country and flour buyers are not ready to buy. Neither would we know what to do if wheat were advancing, flour buyers were anxious to buy our flour, and wheat sellers were unwilling to sell. We are confident that if it were not possible for us to use the hedging markets business in general would go to large concerns which are capable of carrying large stocks of wheat and able to finance them, as well as able to stand losses should the market ever go against them. Furthermore, it would be necessary, in order to offset any such losses as a grain dealer or miller might have from time to time, to work on a larger margin of profit in purchasing the grain from the farmer and also in selling his product.

Would you, therefore, consider all these things and be considerate in the matter? We all feel at times that things that happen may be manipulation on the part of professionals, in which we may be mistaken, and that conditions might have been even worse had it not been for a certain control by speculators, hedgers, and others who operate on the board of trade. May we hear from you as to your version of it? By all means protect the interest of those who depend on the hedging market for the security of their business, for reasons stated above.

Sincerely,

WELLS-ABBOTT-NIEMAN CO.
GERALD EHERNBERGER, *President.*

THE UPDIKE GRAIN CO.,
Omaha, May 13, 1921.

Hon. GEORGE W. NORRIS,
Care Senate Chamber, Washington, D. C.

MY DEAR SENATOR: Referring to what is known as H. R. 5676. While I presume it is hard to tell just what shape this bill will be in when finally passed, if it is passed, or what it will contain, I simply want to call your attention to the fact that any legislation that tends to do away or interfere too much with the present system of marketing grain, in my opinion, will result in what would mean very much lower prices to the producer and consumer of grain. It is my opinion, instead of trying to tear down the present system of marketing grain, any legislation that is put through should be with a view of building up and improving the existing systems.

If each grain exchange in the country was compelled to have a clearing house, which would keep its books and records in such shape so that it would be no trouble for a Government man or anyone else who had the legal right to do so to check the origin of every speculative or hedging trade, if for any reason checking is necessary. I feel it would be sufficient legislation, providing the same law compelled every commission house or person handling speculative trades to keep their records in such a manner that every trade could be easily traced to the originator or to its origin.

The law, if it is practical to do so, should limit the size of towns in which telephone or telegraph companies could lease wires, and then should go further and not only make it necessary for any firm or person who leased the wire to be a member of each and every board of trade the quotations of which are obtainable or carried on these leased wires, but also the party representing the firm or person in each town where the wires were operated should be compelled to be a member of the exchanges. This would place the responsibility as to properly conducting the business on the members of the exchanges that were affected by the measure and do away with so much of this business being handled through people who really do not understand it, and do away with the soliciting of so much of this speculative business from people who really do not understand it and should not speculate.

The grain exchanges themselves, I think, could be depended upon to regulate the trading through them if some such a law as I have indicated is passed. They do not like manipulation or overtrading any better than anyone else. At the same time, in the past, manipulation of markets was most always in an upward direction instead of downward, and there should not be any legislation passed which would be one-sidedly against the farmer. He should be protected.

The law should give the board of trades authority to regulate or stop any person from what the board of trades would consider overspeculating or manipulation of markets. It should, also, carry a clause compelling them to allow any financially responsible and reputable person, firm, or cooperative society of any kind to become a member of the exchange, but it also should compel such person, firm, or cooperative society to live up to the rules and regulations of such exchange.

It would be very easy for everyone connected with this business, including exchanges, to work under such a law, and it would not necessitate very much, if any, policing or interferring by the Washington authorities, but the law should give some one, say the Secretary of Agriculture or the Secretary of Commerce, authority to start an investigation at any time he saw fit, etc., but it would be unnecessary to create a lot of positions for people not already connected with the Government.

Yours, truly,

M. B. UPDIKE.

The CHAIRMAN. There seem to be no further witnesses to be heard this morning, and we will adjourn until to-morrow morning, at 10.30 o'clock.

(Whereupon, at 11.45 o'clock a. m., the committee adjourned until to-morrow, Tuesday, June 7, 1921, at 10.30 o'clock a. m.)

FUTURE TRADING IN GRAIN.

TUESDAY, JUNE 7, 1921.

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE AND FORESTRY,
Washington, D. C.

The committee was called to order by the chairman (Senator George W. Norris) at 10.30 o'clock a. m.

Present: Senators McNary, Capper, Gooding, Keyes, Ladd, and Kendrick.

The CHAIRMAN. We will hear you now, Mr. Congressman.

STATEMENT OF HON. GEORGE M. YOUNG, REPRESENTATIVE FROM THE SECOND DISTRICT OF NORTH DAKOTA.

Mr. YOUNG. Mr. Chairman and gentlemen of the committee, I desire to reflect the views briefly of the Equity Cooperative Exchange, a large and successful farmers' cooperative sales organization, with headquarters at St. Paul.

This organization began in a small way and has gradually grown until now it is a strong organization, both from the standpoint of its financial statement and its membership. It now has 23,000 stockholders, practically all of them actual farmers, men who live out on the farms and make their living by farming.

This organization has tried more than once to secure a membership on the Minneapolis Grain Exchange, called the Chamber of Commerce, and I think also the Chicago Board of Trade. I know it is the feeling of the officers of the Equity Exchange that they would like to represent on the great grain exchanges their 23,000 stockholders, and also their patrons, and it has a very large number of patrons who do not hold stock in the organization. Membership has always been denied to them for the reason that, as stated by the members of that organization, the Equity Cooperative Exchange is cooperative in principle, sharing its profits with its patrons, and therefore it would amount to a cutting of commissions.

Now, I understand that is the reason why cooperative organizations have been denied membership in other grain exchanges in the United States.

The CHAIRMAN. Mr. Young, this exchange has a capital stock, has it?

Mr. YOUNG. Yes, sir; it has.

The CHAIRMAN. And pays a definite premium on it or not to exceed a definite premium?

Mr. YOUNG. Their by-laws provide that they shall not pay higher than 8 per cent, that anything above that shall be considered in the shape of a patronage dividend, as I understand it.

The CHAIRMAN. Based on the amount of grain that each member has?

Mr. YOUNG. Well, I could not tell you exactly as to that, but it is true, anyway, that the profit-sharing plan is so pronounced in that organization that the Chamber of Commerce denies it membership on the theory that it amounts to the cutting of commissions.

The CHAIRMAN. Do you know whether they handle grain for farmers who are not members of their organization?

Mr. YOUNG. Oh, yes; more than for those who do belong, very many.

The CHAIRMAN. When they do handle that grain for some outsider, does he share in the patronage dividends, or does he get a definite sum and end it all?

Mr. YOUNG. I can give you definite information as to this later, if you desire it.

I will say, to begin with, this concern has had a rather—I was going to say checkered career—it has had a very difficult road to travel for the reason that it has been subjected to a number of law suits on the part of the chamber of commerce to put it out of business. In other words, the chamber of commerce has not been satisfied to deny them membership, but has also attempted to drive them out of business, and has, what you might say, struck below the belt during the formative period. For instance, when the organization during that period had difficulty in making a good showing in the way of profits, through the chamber of commerce an action was brought to cancel or take away their charter.

The CHAIRMAN. They were chartered under the laws of Minnesota?

Mr. YOUNG. Under the laws of North Dakota.

The CHAIRMAN. Under the laws of North Dakota?

Mr. YOUNG. While the Equity Cooperative Exchange won that suit it was a long and expensive affair, and it not only cost money to fight it, but during that entire lawsuit, which furnished a great advertising means to the chamber of commerce to continually ding in the ears of the people that they were insolvent and that their capital had been impaired and they were not worthy of credit: that their capital having been impaired the State should take away their charter. You can naturally understand how seriously that would damage and injure their business.

It is the belief of many that that suit was brought either for the purpose of actually taking their charter away, or else damaging their business and their credit.

So that during those years, naturally their profits were not big, after paying their attorneys' fees and their other expenses, and suffering some loss of business on account of the kind of propaganda campaign referred to, up to this time they have not distributed any very large amount of dividends, preferring to make their company snug and tight and strong financially. I think they have been wise in doing that. They are attempting to make their concern strong from the financial standpoint.

Senator KENDRICK. You are unable to tell us as to whether or not the outsiders, those who are not members of this cooperative agency, are participating in the money profits of the agency?

Mr. YOUNG. They have not up to this time, so far as I know, for the reason that their own stockholders have not had their dividends up to the limit of the 8 per cent.

The CHAIRMAN. So there were no patronage dividends?

Mr. YOUNG. There was no occasion for patronage dividends, for the reason that they have not had their dividends up to that level.

The CHAIRMAN. What Senator Kendrick was trying to find out, and what I would like to find out, is this: Does their charter or do their by-laws provide that in case they do have any patronage dividends to distribute the distribution is confined to their members or does it include outsiders who have done business with them?

Mr. YOUNG. I regret very much to say that I can not answer that question.

The CHAIRMAN. All right, Mr. Young.

Mr. YOUNG. I know this, that the local elevator companies organized by the Equity Cooperative Exchange, or through their activities, are organized strictly on the patronage basis.

The CHAIRMAN. Yes.

Mr. YOUNG. The patronage distribution basis?

The CHAIRMAN. Yes.

Mr. YOUNG. This patent concern was organized a number of years ago, before there had been much done along the purely distributive plan on the patronage basis, and it may be possible that the parent organization did not include those outside of their own stockholders. Perhaps later I can furnish that information.

Senator LADD. Under the law, Congressman Young, enacted in the last session of the Legislature of North Dakota, they can only be cooperative when they extend their patronage dividend back to their own stockholders, but not to others.

Mr. YOUNG. That will answer it.

The CHAIRMAN. That settles the point.

Mr. YOUNG. Yes; that settles the point entirely.

Senator LADD. That they can not be named "cooperative" unless they are cooperative in that sense.

The CHAIRMAN. Yes.

Mr. YOUNG. I know that those local organizations years back were often organized on that basis. Their idea is to run a big concern at St. Paul in such a way as to serve these smaller concerns, and they probably never expected to charge commissions or to make their own earnings very much above the 8 per cent level.

Now, that will give you an idea as to the character of this institution, and, as I said, the reason it has been denied membership is the same reason that has been given by the other big exchanges throughout the country.

This is a typical proposition. If we can learn what this concern wants and what it should have, it is what you ought to give to every similar organization throughout the country.

Mr. Benjamin Drake is the attorney for the Equity Cooperative Exchange, and he has prepared a statement here showing how they would like to have this bill amended. I will hand this to the stenographer when I get through, but I shall read it because I want to make sure that all of the members of the committee get the views of Mr. Drake, who speaks for this organization.

I will also say that I have a letter from Mr. J. M. Anderson, president of the Equity Cooperative Exchange, saying that he has examined this statement, and he concurs in the views of Mr. Drake.

Mr. Drake's letter reads:

ST. PAUL, MINN., *May 31, 1921.*

Hon. GEORGE M. YOUNG, M. C.,
Washington, D. C.

DEAR FRIEND: Your letter of May 19 addressed to Mr. Anderson reached our office several days ago. Owing to the fact that I was engaged in trial work for a number of days last week, I have been unable to give the matter attention until the present time.

After going over subdivision (e) of section 5 of the amended bill, I agree with you that the present language of the subdivision does not seem to clearly and definitely sanction, provide for, or protect the right of membership of cooperative organizations in grain exchanges. As was truly stated in the House debate upon this bill, one of the principal—if not the principal—necessities for this legislation lies in the hostility of the organized grain exchanges toward cooperative organizations and their repeated and unanimous refusal to admit such organizations to membership unless they first surrender the right to function in a cooperative way. In a nutshell, the organized exchanges insist upon the preservation of the uniform commission rule, and, without exception, insist that the cooperative distribution of patronage dividends is in the nature of a rebate and, consequently, a violation of this rule.

Mere membership in a grain exchange is of no value whatever to a cooperative organization if to obtain and exercise the privileges of such membership it must abandon the very principles which it was organized to carry out.

The present contest between the producers and the grain exchanges will never be permanently or satisfactorily settled until the right is assured to producers' organizations to function cooperatively in exercising the rights of membership. We do not believe that it should be left to the discretion of the governing boards of the exchanges, even under the supervision of the Secretary of Agriculture, to deny a producers' organization this right by the enactment of any rule or regulation. This issue is absolutely fundamental and should be met and decided squarely. It should not be evaded or left in doubt, as it seems to me to be a fair construction of the present language of subdivision (e) of section 5.

"It is interesting to note, in this connection, that the Minnesota Legislature, at the 1921 session, by overwhelming vote, enacted legislation specifically providing that any rule of any grain exchange, the effect of which was to deny a cooperative organization the rights of membership on account of the cooperative distribution of commission profits, should be illegal and void. We believe that a similar provisions should be incorporated in the present bill, and suggest the following in place of subdivision (e) as now adopted"—

Now, this is the change they would like to have made in the bill as it passed the House.

Senator MCNARY. Subdivision (e) of what section, is that?

Mr. YOUNG. Subsection (e) of section 5.

Senator MCNARY. Thank you.

Mr. YOUNG. It reads:

"(e) When the governing board thereof admits to membership thereof and all privileges and rights thereon, including the right to pay and distribute profits, earnings or dividends upon a cooperative basis, any duly authorized executive officer of any lawfully formed and conducted cooperative association of producers having adequate financial responsibility.

"*Provided*, That any such association or its representatives applying for admission to membership on a board of trade be able to and shall comply with and conform to all reasonable rules and regulations of such board if the same have the approval of the Secretary of Agriculture, and

"*Provided further*, That no such rule or regulation shall be held reasonable or shall be approved by the Secretary of Agriculture if it denies, limits or impairs the right of such association to pay and distribute profits, earnings or dividends upon a cooperative plan or basis."

Mr. J. M. Anderson is at present out of the city, and I have not been able to submit this letter to him. I hoped, however, that the suggestions made will be incorporated in the law as finally enacted.

Very sincerely,

BENJAMIN DRAKE,
Attorney for Equity Cooperative Exchange.

Senator KENDRICK. Don't you think that should be amended so would read to its stockholders and members?

Mr. YOUNG. I don't think I just understand that.

Senator KENDRICK. The idea is that the distribution of its profits nd earnings might be made to its own members.

Mr. YOUNG. Or patrons.

Senator KENDRICK. It would hardly be fair to distribute them to he public generally, because that would be exactly what the exchanges laim they are trying to do; that is, it would carry out that principle of rebating; but if the distribution were made to its own stockholders t would then be practically the same as any other corporation except here would be more stockholders.

Mr. YOUNG. I do not understand that you would object to distribution to its own stockholders——

Senator KENDRICK. No.

Mr. YOUNG. Or patrons?

Senator KENDRICK. Well, patrons would be outside the members, I take it?

Mr. YOUNG. Yes.

The CHAIRMAN. They would not be members?

Mr. YOUNG. They would not be members, but they would be patrons. They would be the men who would deal with them.

The CHAIRMAN. Yes.

Mr. YOUNG. And sell their grain to them, and to whom they are willing to give a patronage dividend.

Senator KENDRICK. Yes.

Mr. YOUNG. In other words, I suppose the general idea is to sell and handle the product from these farms on the best possible basis. At the time of the initial transaction they pay as much as they think they can safely pay. If, later, they are able to sell to better advantage, they are willing then, at the end of the year, to go back to these various patrons and let them have——

The CHAIRMAN. Distribute more.

Mr. YOUNG. Let them have whatever they can afford to pay, governed by the amount of their profits.

The CHAIRMAN. Yes; but I understood you to say, Congressman, that your State, that is, Senator Ladd's State, had now provided that they be restricted to their own members, that is, in the distribution of their profits.

Mr. YOUNG. I did not understand the Senator to say that.

Senator LADD. As I understand the law—and I have a copy of it here—the new law of North Dakota recently enacted provides for the form of cooperative bodies to which they shall have the right to pay dividends in proportion to the amount that they supply. Now, whether that is confined to its membership or not, I do not know, but I think it is.

The CHAIRMAN. It might be, if the committee thought favorably of the suggested amendment and wanted to change it so as to confine it, it could be very easily done by inserting the words in the proper place "to its members".

Senator KENDRICK. Yes.

The CHAIRMAN. There would not be any difficulty about that.

Mr. YOUNG. I think you would entirely destroy the whole purpose of the Equity Cooperative Exchange and most, if not all, of

cooperative concerns in the country if you did not also provide for their distribution to patrons because, in the very nature of things, it is only what you might call the progressive individuals in the county or township or State who put money into a concern of this kind to help it along. As a rule they do not do it to make money. It is a public-spirited proposition in which they all join with the idea that it will be a benefit for all, and the real business is done, not with those members—that, perhaps, is only a small portion of the amount of business they do—these local elevators and the bigger institution, handle, I suppose, vastly more grain for nonmembers and their idea is to serve all of the community, all of the farmers, in the same way. They do not propose to give to their own stockholders anything excepting say 8 per cent. After they have given them that 8 per cent they figure that is all they should have, and after that they divide among the nonmembers and the members on precisely the same basis.

Senator McNary. Let me ask you about this subdivision (e) of section 5, whether that is broad enough to admit to membership those cooperative organizations who prorate their profits to their members.

Mr. Young. I think it is broad enough to admit them, but it does not insure that they will get in. The provision is not mandatory. We have had some experience in these matters in the past and we do not want to leave any door open for them to arbitrarily deny membership to organizations such as I have been talking about.

The Chairman. Mr. Young has just read that.

Senator McNary. I heard him read that, and I could not understand the necessity of that long proviso. Now, the Secretary of Agriculture, under this bill, can admit cooperative organizations who prorate their profits to members.

Mr. Young. Yes; he may.

Senator McNary. But do you mean to say that you do not want discretion left with him; you want to force these men in?

Mr. Young. There is a lot of discretion left here with him, but we do not want him, in exercising the discretion, to deny membership solely to an organization for the reason that it distributes its profits not only among its members but to its patrons. That is a matter of very great importance, and it is not clear in this bill, Mr. McNary.

The Chairman. As to whether the committee makes the change including nonmembers as well as members, of course that is something we will have to decide.

Mr. Young. It is a matter of policy.

The Chairman. Now, as a rule, Mr. Congressman, is it not true that we find this to be the case: The fellows who organize the corporation and furnish the capital stock are the men who themselves produce a good deal of the grain?

Mr. Young. That may be so.

The Chairman. And they expect to patronize and do patronize the institution?

Mr. Young. Yes.

The Chairman. Now, they will have two objects in view: First, people want to get a reasonable amount of return on the money that they invest to operate it. That will be a small amount, though,

for each one of them, because I think, as a rule, the stock is limited. The real object is that in handling their crops that they raise, amounting to a great deal in each individual case of the stockholders, they will probably get out of it all there is in it, without paying commissions to anybody, and if there is any profit left in it, they are going to get their share of that.

Mr. YOUNG. I think that is the purpose of it; yes.

The CHAIRMAN. I was under the impression that where these local corporations were organized and built or bought an elevator, there were in that organization most of the fellows who patronize it, and that if they buy grain of anybody, an outsider who is not a member, if he took his grain and sold it to them he sold it because he was getting as much as or more than the competing elevator would pay, and he got his money out of it the day that he delivered the wheat, and that ended it; he did not get any dividends, but he simply sold his crop to them like he would to anybody else. Now, I may be wrong about that.

Mr. YOUNG. Well, I want to say, Senator, that I know from my own personal experience that that is not true, because I have personally sold some of my grain to organizations of that kind where I do not have any stock ownership.

The CHAIRMAN. And you got a dividend?

Mr. YOUNG. Well, I have one coming; at least that is what they told me last fall, that that is the plan upon which it was organized.

The CHAIRMAN. Yes; I assume it is different in your State from what it is in mine.

Mr. YOUNG. In that particular concern that I have in mind, if they have a surplus to distribute I am entitled to my share of it.

Senator CAPPER. Do you think an organization of that kind is organized on really cooperative lines that distributes its profits in that way, to a nonmember? The nonmembers are not cooperators. There is not much difference between that and any other corporation doing business, is there?

Mr. YOUNG. Well, of course, as you say, they are getting service in a concern that they did not help to create. That is true.

The CHAIRMAN. In other words, somebody else is taking the risk?

Mr. YOUNG. At the same time they are helping that concern to be successful, and it is an advantage, probably, for them to do that, even from a financial standpoint. The real purpose, however, in doing business that way is to get an organization that will give the producer everything, as the chairman says, that they can possibly give them; to give them all there is in the grain.

Senator MCNARY. Let me ask a question on that point.

Mr. YOUNG. Just one second.

Senator MCNARY. All right.

Mr. YOUNG. I am afraid I will forget to say this one thing, and I think I ought to say it.

To my mind, this is the most important thing in this bill. This committee and the committee over in the House, on Agriculture, are working hard to find ways to put agriculture on a good, sound foundation and to permit those who have farm products to sell to market them to the best possible advantage. Now, first of all, I think those great markets should be open; they should be open ju as far as possible to everybody. They should not be closed affai

They should be great market places, where people who have grain to sell will have an opportunity to sell it.

Senator KENDRICK. But you would not ask for a market without some governing rules and regulations?

Mr. YOUNG. Oh, no; not at all; but I want to suggest this, that so far as these cooperative concerns being able to pick up all the business on account of this plan is concerned, there is nothing to prevent the commission firms and the other members of the chambers of commerce from dividing their profits over 8 per cent with their patrons.

Now, if it is competition we want, I think with respect to the marketing of farm products here is the way to get it, and if you deny these people that opportunity to get in on the exchange I think you are closing one of the doors to real competition on those big markets.

Senator KENDRICK. Congressman, do you know that that very principle of paying for business in the sale of other lines of farm products—live stock, for instance—led to numerous abuses in the past, when it was put in operation? It demoralized the entire agency, almost, of legitimate sales and marketing of live stock, and the man who assumed the responsibility of handling live stock had to go out and look for business. It had a very detrimental effect on legitimate business, and I believe that would apply in the same way here. I am strong for the cooperative agencies having their place on the exchange, if necessary, but I believe that we will find that it should be purely cooperative and confine it to the membership of the organization, the same as any other corporation. Let the membership be as numerous as you please, but I doubt, if the application should be universal to everybody to come in, whether it would be beneficial.

Mr. YOUNG. Well, that, of course, is a question of broad policy for this committee to decide. I believe, however, that these cooperative concerns which distribute their profits on the patronage basis are organized on a sound economic basis, and therefore should not be denied membership on the grain exchanges.

Senator MCNARY. Let me ask you one further question in connection with these structures that you are mentioning, that you call cooperative. What is the proportion of those bringing their grain to these elevators that have the capital investment against those who are simply patrons?

Mr. YOUNG. I could not answer that question. That would be impossible.

Senator MCNARY. Well, do a few men come in and organize these and put up the money, and then the community generally comes and patronizes them after a certain percentage is paid on the stock?

Mr. YOUNG. The rule is they canvass everybody to take the stock and are anxious to get as much capital as possible, and, as a rule, they do not get as much capital as they would like to have. I doubt if there are any of the larger cooperative organizations who would not be glad to have a further sale of stock to add to their capital.

Senator LADD. Mr. Congressman Young, are there not three types of elevators in North Dakota—the directly cooperative elevators, the so-called farmers' cooperative companies, many of whom call themselves cooperatives, but who are not in any sense, and then the independent elevators?

Mr. YOUNG. I think that is true.

Senator LADD. I think there is some confusion about that, but there are those three.

Mr. YOUNG. To my mind, I think all those three ought to be admitted to the chamber of commerce for membership, whether it is a limited matter or not. I think the three kinds that Senator Ladd has spoken about and all responsible corporations doing business, if they are financially sound and strong, should be admitted, and that must be the case according to this amendment. Grain exchanges ought not to be closed affairs. They should be open to all.

Senator LADD. After July 1 that second class will have to go out of business or they will have to change their names under the new law.

Mr. YOUNG. Yes; I think that is true in North Dakota, at least.

I want to now read the letter from Mr. Anderson that I referred to:

ST. PAUL, MINN., *June 2, 1921.*

Hon. GEORGE M. YOUNG,
House of Representatives, Washington, D. C.

DEAR MR. YOUNG: With reference to your favor of May 19, inclosing copy of H. R. bill 5676, and your suggested amendments, I have to-day received from Mr. Drake a copy of his letter to you where he made certain additional suggestions, and I heartily concur in the suggestions as made by Mr. Drake for the reasons that he has so clearly set forth in his letter to you.

I trust that it will be possible to incorporate these features in the measure, as without them we feel that it would very largely fail of its good purpose.

Very truly, yours,

EQUITY COOPERATIVE EXCHANGE
J. M. ANDERSON, *President.*

Mr. YOUNG. This is all I have to say, gentlemen, unless you have some further questions.

Senator CAPPER. Congressman Young, what do you think of the bill generally, or the provisions of the bill?

Mr. YOUNG. Well, I do not belong to that number who think that this bills falls so far short of what was asked that it is valueless. It is true that a great many people expected a bill somewhat more drastic than this is. My own notion is that it would be better to get some experience under this bill before adding features that might be regarded as a little more radical.

Senator CAPPER. Then you think the bill is about as good as could be expected?

Mr. YOUNG. I would not want to say, Senator, for instance, that your own bill, the bill that you introduced at the last session, would not give good results. I do think this, that if this bill is enacted in substantially the form it is in now we are going to get experience out of it and information out of it that we do not have at this time.

One trouble in drafting a bill of this character at this time is that it is almost impossible to get accurate and dependable information as to what is now being done on the great grain exchanges. To my mind the very best thing in this bill now is that we are going to find out, for the benefit of future Congresses, what is done, and future Congresses and future committees will have information such as we do not have at this time, and they will be in a better position to enact what might be called final legislation on this subject.

Senator CAPPER. It will eliminate some of the evils, will it not?

Mr. YOUNG. I think so. I do. I hope, gentlemen, you will give this bill favorable recommendation. Even if you do not put in this

amendment that the Equity Cooperative Exchange asks for, I hope it will be reported favorably. If you can put this amendment in I know it would please a great many people throughout the Northwest who have grain to sell.

Senator McNary. You are satisfied with this bill in its present form, excepting that you would like to have a little tightening up of subdivision (e) of section 5, as you have outlined it, in regard to cooperative organizations?

Mr. Young. Well, I am not any longer a member of the Committee on Agriculture of the House, and have not given it the close study that I would have had I been on that committee, but I have given it sufficient study to convince me that it would be of great benefit to the grain growers to have it enacted into law.

The Chairman. All right, Mr. Congressman.

Mr. Young. I thank you very much, gentlemen.

The Chairman. All right, Mr. Smith. You may proceed now.

FURTHER STATEMENT OF MR. ROLLIN E. SMITH, BUREAU OF MARKETS, DEPARTMENT OF AGRICULTURE.

Mr. Smith. Mr. Chairman, I have hesitated about appearing before you again and testifying on this bill, because I feel very much in the position that Mark Twain was in when he was asked to take part in a discussion on Heaven and hell. He said, "I can't say a word. I have friends in both places." I have friends in the grain trade and I have friends outside of it, and no matter what I say I am going to hit some of them. I think, though, that any differences on what I have to say will arise from a different viewpoint rather than from anything else.

These hearings have brought out one thing, if nothing more, and that is a frank acknowledgment from the members of the grain exchanges or of the grain trade who have testified that there are abuses in the futures market.

The evils of overspeculation and manipulation have been going on for many years and they are going on to-day. The complaints against the grain exchanges are not against the market system, but against the abuses of the market system.

In 1907 I wrote a chapter on grain exchanges in my book, which was published in 1908, as follows:

> The greatest evil of the American grain markets is manipulation by a few powerful traders.

Also:

> But that there is manipulation is not the fault of the market system. Manipulation and attempted corners do not call for legislation or drastic laws, but for sufficient moral courage on the part of the directors and members of the exchanges to suppress the evil.

I was wrong in that statement. I have been closely associated with the markets ever since, and I am now definitely of the opinion that it was not moral courage that was needed, but inclination. We are compelled to face the fact that the majority of the members of the exchanges want commissions more than they do to correct the abuses of their markets. At the same time, there are many in the exchanges who would be very glad to see these evils eliminated. Nearly all of

the members of the grain trade who have testified before this committee have said that they believed supervision and the correcting of abuses should be left to the exchanges themselves. This is another instance of "When the devil was sick the devil a monk would be, but when the devil was well the devil a monk was he."

I have been very familiar with the speculative markets and with many things that have happened behind the scenes. I know how the members of the exchanges feel on this matter, and I say with all the force of conviction that I have that overspeculation and manipulation will never be stopped by the grain exchanges themselves.

Just before trading in wheat futures was stopped as a war measure, I went to the secretary of the Minneapolis Grain Exchange and told him what was being done by the scalpers in the pit. I was then market editor for the Minneapolis Journal, and I was on the trading floor of the exchange every day. Just at that time there were few orders coming into the pit, so the scalpers had it all their own way. As there was no selling pressure, they would bid the price up 5 or 6 or 8 cents a day, and maybe knock it down as much on another day. The market was merely a shell; there was no substance to it.

I went to the secretary of the chamber of commerce and told him just what was being done in the pit, and I said that trading in futures should be stopped. He laughed at the idea and said that the directors had no authority. He said the traders would pay no attention to such an order from the board of directors, and if they took it into court they would beat the directors.

Trading was stopped as a war measure two weeks later. It could have been stopped earlier. Neither the secretary of the chamber of commerce nor the board of directors at that time seemed to take the slightest interest in what the scalpers were doing with the market in the pit. They seemed to be satisfied to let things go on without any question.

The point is that the members of the exchanges would never give the directors of the association authority to supervise their trading in the pit.

Some proposed reforms in this respect on the Chicago Board of Trade have been defeated when put to a vote of the members. There are some members of the Chicago Board of Trade who would be very glad to see some of the evils eliminated, and I know that proposals have been made and the question brought up from time to time to the board of directors, and I know that some things that would have been very beneficial were defeated when it came to a vote of the members.

I wish now to call your attention to something in which you are very directly interested.

There was a corner in May wheat on the Chicago Board of Trade last week. On Tuesday, May 31, while a member of that grain exchange sat here and cautioned this committee against interference with the exchanges, because it would cause loss of confidence in them, May wheat was advancing 19½ cents under the influence of buying by so-called "stubborn shorts," who were trying to get out of the predicament in which they had found themselves.

It was one of the most complete and audacious corners ever executed on the board of trade. The "longs" stood pat and the "shorts"

were forced to walk up to the cashier's window and settle, figuratively speaking.

But this was not all. In fact, it was the least of what happened. The running of a corner while this committee was holding hearings to learn whether there were evils in the market system was to insolently flaunt their contempt for business ethics in your faces, and, in effect, to ask you what you were going to do about it.

The defenders of the grain exchanges tell us that the Chicago Board of Trade has an anticorner rule; that it is no longer possible to corner grain on the Chicago Board of Trade.

Senator McNary. Mr. Smith, would it bother you if I injected a question at this point?

Mr. Smith. Certainly not.

Senator McNary. This corner that you speak of took place within the last 10 days or a week?

Mr. Smith. In the last three or four days of May.

Senator McNary. I would like to have it described to us. You generalize in your written statement. But how did it come about? What was the influence there?

Mr. Smith. I am coming to that in just a moment, Senator.

Senator McNary. Very well.

Mr. Smith. It has been said here that futures stabilize prices; that the fluctuations are not so great as they would be without trading in futures. Let us see what the action of the market has been since about the middle of last March.

I will explain the conditions that led up to the corner.

The Chairman. Give us the date again.

Mr. Smith. About the middle of last March.

The Chairman. Oh, yes. I thought you were going to discuss the one that happened a few days ago.

Mr. Smith. I am going to describe the conditions that led up to it.

The Chairman. All right.

Mr. Smith. May wheat, as the result of short selling, running into stop orders and causing a loss of confidence as prices declined, was forced down 35 cents in a few weeks. The decline terminated on April 14. Then, under the influence of speculative buying, an advance started and continued until May 25—a bull market, a wild bull market part of the time. The advance from April 14 to May 25 was 67 cents. Then the price broke 20 cents in two days, and advanced 22 cents in two days more, 19½ cents of which was on May 31.

The net advance of the May future from April 14 to May 31 was 69½ cents. At the same time, July wheat advanced only 35 cents. May wheat was cornered, but let us see what cash wheat did.

On May 31 Chicago May wheat closed at $1.87½, and July at $1.28½, a difference of 59 cents.

On May 31, Nos. 1 and 2 red and hard winter wheat, the contract grades, sold in the Chicago market at 2 cents under May, or 57 cents over July. No. 3 sold at the fixed discount of 7 cents under Nos. 1 and 2. This was 50 cents over July. No. 4, which is not deliverable on contracts at any price difference, sold at 5 cents under to 5 cents over July.

On the next day, June 1, after the May future had expired, cash wheat sold as follows: No. 1 red and hard, 20 to 23 cents over July.

This was as compared with 57 cents only the day before. No. 2 red and hard, 19 to 21 cents over July; No. 3 red and hard, 15 to 18 cents over July; No. 4 red and hard, 10 to 15 cents over July. This was a drop over night of from 34 to 37 cents for No. 1, 36 to 38 cents for No. 2; 32 to 35 cents for No. 3, but an advance of 10 to 15 cents for No. 4.

If trading in futures stabilized the Chicago market last month, what would have happened to the price of wheat if there had been no futures market?

Now, Senator McNary, I will explain a little more in detail how that corner happened, and, at the same time, I will speak of short selling.

It has been stated here that anyone that sells short has to buy it back; also that the market rebounds in a day or two, and that the average is not disturbed. The bear market that began in March and ended on April 14, after the decline got well under way, caused a loss of confidence. Flour buyers would not buy flour. The grain dealers who distribute at the small eastern distributing points, and do not hedge, had lost confidence to such an extent that they bought only when absolutely necessary, and as the price declined, it ran into stop orders; that is, those who had bought wheat sometime before, and corn also, saw their profits disappear, and then saw losses accumulating, or were afraid that they would accumulate, and so they sold out their holdings, and that increased the pressure on the futures market.

That market was, in fact, to use a term sometimes used, demoralized. Everybody had lost confidence and did not know where the bottom was, and even lower prices were being predicted when it was around the bottom. There had been profit taking all the way down, of course, but when some of the big traders took profits their heavy buying stopped the decline. That was the end of the bear market.

Then operators began to "play" for an advance, and in fact this was the beginning of an advance which resulted in that corner. As the price advanced it brought in other buyers and resulted in a general buying movement, speculative as well as otherwise, until it reached the sensational stage where drastic fluctuations began. There was a break of 20 cents in two days, for instance, after May 25, and some of the "shorts" who had sold as it was going up persisted in refusing to cover, thinking that at the end of May something would happen that would let them out. A considerable amount of wheat was shipped into Chicago from other markets to apply on short sales, but it was not enough. There were long interests that held on the same as the "shorts," and it resulted in 19½ cents advance on the last day of the month. I have read in the market pages of the papers that the shorts finally settled at the closing price, $1.87½. A committee on the board of trade was appointed to fix a settling price, but a settlement was finally made by the operators themselves.

Senator McNary. Were there any natural causes operating during that period that might have brought out this sudden and unusual increase in price?

Mr. Smith. None, whatever, Senator. There was a shortage of cash wheat, actual wheat in the elevators there, but there were no conditions different from those that existed when the price was going down in April. There was an export demand right along when the

price was going down. It was not steady; it skipped a day or so at times, but there was a demand. Also there was a milling demand for wheat, which caused a premium to be paid from 8 to 12 cents over the May price.

Senator McNary. Then, it is your judgment that the whole matter was artificially brought about through manipulation?

Mr. Smith. I think so; 95 per cent of it.

Senator Capper. And somebody cleaned up large profits, did they not?

Mr. Smith. Probably.

Senator Capper. They were speculators almost entirely, were they?

Mr. Smith. It was said that some exporters in New York had May wheat bought. They may have had some, but I know that there were speculators also.

The Chairman. I think, Mr. Smith, one of the witnesses, in referring to that rapid change in the market, explained it by saying that it was the fellows who had already purchased wheat for export and that that was the thing that brought about this rapid fluctuation.

Mr. Smith. I noticed on the market page of the Chicago Tribune that a certain exporter, giving his name, although I do not recall it now, in New York, who was credited with holding May wheat toward the last, put out a statement saying that he had already sold out all his holdings. Of course, it is quite probable that exporters did hold some of it.

The Chairman. Well, was there anything during that time in the way of weather conditions or any natural cause affecting the future supply?

Mr. Smith. There was a crop scare in the Southwest and doubtless a great deal of damage was done to the crop in Kansas and Oklahoma, though some of it is being denied now, and that brought considerable buying into the market; but, as I said, July wheat——

The Chairman. That occurred when wheat was going up?

Mr. Smith. Yes.

The Chairman. What was there in the way of natural causes, if any, that existed anywhere in this country, or anywhere in the world, just before the price of wheat took a rapid slump?

Mr. Smith. There was no natural cause. It was known that there was a great scarcity of wheat in this country, and it was conceded that there would be a very small carry-over at the end of the crop year. The bears got the upper hand and hammered the market.

The Chairman. And then you say the prices went down rapidly?

Mr. Smith. Yes, sir. I was going to speak about this crop scare and this natural condition, if you might so call it, during the advance. July wheat represents the new crop future, and if the advance was on crop damaged, it should have affected July more than May, yet while May wheat went up 69½ cents, July wheat went up only 35 cents.

The Chairman. So that, in your judgment, if those reports about injury to the crops were true, July wheat ought to have gone up more than May wheat?

Mr. Smith. Logically; yes, sir.

Senator Capper. Can you give us any idea of what the amount of the profit was that was made on that flurry?

Mr. SMITH. That would be impossible, Senator, without knowing something about the volume of trading that was done at that time.

Senator CAPPER. It would run into millions of dollars, would it not?

Mr. SMITH. Well, it was possible for anyone to make from 40 to 50 cents a bushel profit there, and if he had traded in a million bushels you can easily figure how much he would have made; or if he had traded in 5,000,000 bushels you can figure how much that would be.

Senator CAPPER. There were a great many transactions, were there not?

Mr. SMITH. Undoubtedly.

Senator CAPPER. The farmer did not get any of the millions that were made in that flurry, to speak of, did he?

Mr. SMITH. The farmer got very little benefit, because comparatively little of that advance was reflected in the country in time to permit the farmer to sell a great volume of wheat, if he had it. The price was reflected in the country to some extent, and I read at the time that sales of wheat at country stations in Kansas in May were large. Whether it came from the farmers or the country elevators, I do not know.

Senator CAPPER. The speculator was the man who profited by that flurry?

Mr. SMITH. There is no question about that in my mind.

Senator CAPPER. You have no idea of the amount of grain involved in this corner, have you?

Mr. SMITH. No; I have not seen any figures on that.

Senator McNARY. Or the number of speculators or manipulators who brought it into existence?

Mr. SMITH. No.

Senator McNARY. You base your conclusion upon the fact that there was a great spread in a few days, and you can not lay your hand on any natural causes that would bring it about?

Mr. SMITH. That is the general basis for it. But to one familiar with the markets it is as plain as though written on the wall there what was going on.

The CHAIRMAN. To my mind, Mr. Smith, it is not so much a question as to who makes, whether the farmer or the other fellow, but it is whether the market has been fluctuated either up or down by artificial causes. It should be just as bad to control the market by artificial causes if the farmer makes out of it as though he lost out of it.

Mr. SMITH. Exactly, and that is my position, Senator, and I am going to try to point out how some of these big fluctuations can be avoided.

The CHAIRMAN. While we are on this subject of fluctuations, I want to ask you if you are familiar with the fluctuation in the price of wheat during the month of December, 1920? I have before me a chart prepared by Mr. Frank G. Odell, a man with whom I think we are all acquainted, and I think a very reliable man, in which he gives the fluctuations during that month. Are you familiar with them?

Mr. SMITH. In a general way; yes.

The CHAIRMAN. Now, I notice that on December 1 wheat was $1.65. On that day it went down to $1.55, and the next day it went up to $1.72; the same day it went down to $1.65; then, on the third, it went up to $1.72½. What caused that? Was there any

natural cause working there in those three days that made that big fluctuation?

Mr. SMITH. I think not. I do not think natural causes, unless in the nature of a calamity, could. My opinion is that it was the scalpers in the pit on the Chicago market. There are from 200 to 300 scalpers in the pit who make their living on fluctuations. They do not want a stabilized market. The more that prices fluctuate, and the oftener, the better it pleases them.

The CHAIRMAN. Now, just calling your attention to the chart a little further, on the 4th, as I said, it went up from $1.66 to $173½. The same day it went down to $1.68. That was the 4th, and I think the 5th was Sunday. Then, on the 6th, it went clear up to $1.80, and by the 10th it had gone down again to $1.60.

Mr. SMITH. I can not say offhand whether there was anything special in the news. In my office I keep a memorandum when anything in particular happens; but these buying and selling movements, when there is nothing big in the news, run their course in a short time. The speculators that sit around the commission houses, and the scalpers in the pit, "go with the market." If it is going down they sell it, and whenever they think it has gone as far as it is likely to on the news and on existing conditions, they take their profits and turn to the buying side. They follow the course of least resistance all the time.

That chart looks as though the market was what we call a "scalping market"; the fluctuations were caused by the daily operations of the traders.

Senator MCNARY. Let me ask you this simple question: Assuming the correctness of this chart, showing a spread of 25 cents in six days, and then a rescission to practically the point where it started, does that in any way affect the wheat grower, or is it a matter that spends its force among those who are operating?

Mr. SMITH. It is bound to affect the wheat grower more or less, particularly an advance that continues over a period of a week or so. It is a psychological condition. The farmer dislikes to sell on an advancing market, and when an advance is continued, we will say, for a week, he thinks or hopes that it will continue longer. By the time he sells his grain he may strike one of those lower fluctuations that appear on the chart, and sell on the bottom. To use a trade expression, he gets "whipsawed" just as often as amateur speculators.

The CHAIRMAN. All right, Mr. Smith; go ahead with your statement.

Senator CAPPER. Before you do that, Mr. Smith, let me ask you you this question: This bill, as you know, places the grain exchanges under the supervision of the Secretary of Agriculture, and subdivision (d) of section 5 requires that the governing boards of these grain exchanges shall make rules for the prevention of the manipulation of prices by the dealers operating upon the board. Do you think this corner that you have just described could have taken place if this law which we have under consideration now had been in operation, if the grain exchanges had been under the supervision of the Secretary of Agriculture and rules had been made by the governing board as required here to prevent manipulation? Do you think that we would have witnessed this corner to the extent that you have described it here?

Mr. SMITH. Had we had supervision, Senator, they would not have dared to have done it. The exchanges have antimanipulation and anticorner rules now, but doubtless a good many of the members of the grain exchanges would say, "Why, there was no corner there; it was a legitimate condition brought about by the scarcity of wheat in the elevators; there was no wheat there to deliver and if some one wanted to buy May wheat and demand delivery they had a perfect right to do so. Therefore, this was a natural condition." That is about the answer you would get.

Senator CAPPER. Such a measure as this, then, would have been very helpful under just such circumstances or conditions as occurred during the last week?

Mr. SMITH. There is no question about it in my mind, and with one addition that I will come to directly, would, I think, make it absolutely impossible for such a thing to happen. Supervision by somebody, actual supervision—not merely looking on and saying nothing is the matter with it—would cure these abuses. It is not the market system that should be blamed, but it is the abuses of the market system and the lack of supervision.

I am firmly of the opinion that excessive speculation and manipulation can be stopped only in one way. That is, to place a definite limit on open speculative trades that any operator may have at any one time.

This does not apply to hedging transactions.

I do not stand alone regarding a definite limit. A few weeks ago I talked with a friend of mine, who is the head of one of the largest commission houses in Chicago, doing a business in futures. He does no cash grain business. This point was discussed, and he believed that there should be a definite limit placed on open speculative trades, particularly for the reason that by curing this abuse of overspeculation and manipulation, it would have a beneficial effect on the public mind regarding the grain exchanges.

Yesterday I received a letter from a prominent member of the Minneapolis Chamber of Commerce. It is not marked confidential nor personal, therefore I am going to give his name and read the letter. The gentleman is Mr. C. A. Magnuson, who has been president of the Minneapolis Chamber of Commerce. This letter is dated June 4, 1921, and reads as follows:

MINNEAPOLIS, MINN., *June 4, 1921.*

ROLLIN SMITH,
Bureau of Markets, Washington, D. C.

MY DEAR MR. SMITH: Having noticed your testimony before the Senate committee on future trading, and having had my attention called to it by some people, and finding that you agree practically with my position in the matter of future trading, I am taking the liberty of inclosing herewith copy of a bill presented by Senator Gronna, who was chairman of the Committee on Agriculture the last session of Congress, and would say in regard to that bill that it about covers my view of the matter. It doesn't make any difference whether the limit is 500,000 or a million. Under that limit there could be no manipulation of the grain markets of this country. The manipulator is the one to be eliminated. He doesn't do the producer, consumer, or grain merchant any material good, and he is a menace. I believe that the grain trade would have just as much action, as far as trading is concerned, because the smaller dealers would be more likely to come into the market when they are not threatened with the menace of the manipulator.

I believe, however, that the limit should be fixed by Congress and that no one man ought to have the power to either increase or decrease the limit.

I trust you will see your way clear to express yourself accordingly, if you agree with me, and that we may get a bill that will leave the grain markets flexible, the exchange machinery workable, and still eliminate the menace, which is the manipulator.

I would be very glad to hear from you.

Yours, very truly,

C. A. MAGNUSON.

I should like to read section 6 of the bill that was presented by Senator Gronna in the last session:

That the limitation of speculative trades over and above actual or potential ownership shall be not over five hundred thousand bushels; that the actual speculative purchase shall be limited to five hundred thousand bushels beyond the shown legitimate or potential needs of the buyer for actual consumption in a business.

The point is that he recommended a limit of 500,000 bushels of purely speculative transactions, either long or short.

In the bill that is before us the placing of the limit is left to the discretion of the Secretary of Agriculture. I should like to ask this committee how the Secretary of Agriculture can determine a proper limit or when a limit should be placed?

The CHAIRMAN. That is quite an important thing, I think, and I want to ask you this question: Would the same limit be applicable to Minneapolis, or Chicago, or Kansas City, or other grain exchanges?

Mr. SMITH. A smaller limit, Senator, might be applicable to the smaller markets, and also to some different grains, for instance, flaxseed.

The CHAIRMAN. Now, how can we do that by act? How can we put the limit on in the act?

Mr. SMITH. I do not think you can, Senator. I think the best you can do is to make it as simple as possible, and that would probably mean to put a definite limit on speculative accounts.

The CHAIRMAN. Well, do you mean to put it in the act?

Mr. SMITH. Put it in the act.

The CHAIRMAN. If the same limit does not apply all around how can we put it in the act? We would not name the different grain exchanges of the country and fix a limit for each one, would we?

Mr. SMITH. No, sir; but make a limit of 500,000 bushels or a million bushels of open speculative trades, and let it go at that.

The CHAIRMAN. Now, in the operation of these grain exchanges, do conditions sometimes arise that would make a limit for the present time unreasonable three months from now?

Mr. SMITH. There might.

The CHAIRMAN. Well, if that be true, then, how can we put an arbitrary limit in the law?

Mr. SMITH. The answer to that, Senator, I think, is that the limit should be great enough so that it would not reduce the necessary volume of speculative transactions to make as nearly perfect a hedging market as possible, and not try to provide for other instances that might arise. A million bushels is certainly large enough so that there could not possibly be any damage to the market. It would not reduce the volume of speculative activity.

The CHAIRMAN. Would it not be too much in some places or under some conditions?

Mr. SMITH. It might. To put that in a little different way, it might not be small enough to correct all manipulation, but any manipulation that might be done on the buying or selling of smaller

amounts than a million bushels would be comparatively unimportant; that is, if a big trader were limited to a million bushels he could not do much damage in the way of manipulation or cornering the market. If there had been a limit last month I doubt if we would have seen that corner in May wheat in Chicago. I think that some one should have authority to reduce the limit in such times as we witnessed in Chicago on May wheat. It was very apparent that something might happen in that future, because there were no stocks of wheat in the Chicago elevators. They were trading without a basis of trading.

It would have been good judgment on the part of the board of directors, I believe, if they had stopped trading in the middle of May, as they did in corn during the war. I think at one time trading in the December futures was stopped and all having open trades were compelled to settle. The fluctuations became so violent that the directors of the board saw it was good policy to stop trading in that future. That was done as a war measure. They never attempted at any other time anything similar that I know of.

My idea of putting a definite limit in the bill is that the Secretary of Agriculture can not be expected to study the markets as closely as people whose business it is to be familiar with them. Therefore he would have to be advised by others. Now, who would there be to advise him when there should be a limit and how much it should be? I can not figure it out. If he should go to the members of the grain exchanges, they would tell him that a limit was not needed. If he should go to some one else, he might be advised to stop trading altogether.

The CHAIRMAN. On the other hand, if it was necessary to change the limit either up or down, Congress could not do it overnight if we have the limit fixed definitely.

Mr. SMITH. But my position, Mr. Senator, is that if there were a definite limit of 500,000 or 1,000,000 bushels, it would eliminate the manipulative form of transactions, and then the market would pretty well take care of itself.

The CHAIRMAN. Well, do you think that when we fix the limit we ought to give the Secretary of Agriculture authority to modify or change it?

Mr. SMITH. I am not clear on that point, Senator. If there were a commission handling this whole proposition of supervision, I should say the commission should have some such authority, but when it rests in the hands of one man, whose business is in other matters and not in the market, I am a little in doubt.

Now the question arises as to how speculative transactions can be separated from hedging transactions.

All orders look alike, but all brokers and all commission houses do not. Big traders may change brokers and commission houses, but big transactions are easily traced. The houses that handle big speculative accounts are known on the exchanges. Naturally, it could not be otherwise. When trading is heavy and the market active, orders that come into the pit are watched by all the brokers. and very shrewd guesses are made regarding the source of such orders. The names of commission houses sending orders to brokers are "given up" at the time the transactions are made, or sometime during the session; at any rate, by the close of the session. Trans-

actions of commission houses can be checked up. Authority is given in the bill that would cover that point.

Mr. Barnes said that any man whose speculative transactions are great enough to influence prices should be eliminated. "Go after the individual," he said, "the exchanges know them all."

I think that in 30 to 60 days anyone who thoroughly understands the markets could furnish a list of all the big speculators in the United States, and the houses through which they generally place their orders. That is, speculators whose trades are large enough to influence prices.

Daily reports on large transactions should be demanded of the commission houses. Every commission house that handles future trades has a sheet drawn off by its bookkeeper every night, showing just how all their customers stand on the market, how much long or short each one is. These sheets would be open to a representative of the Government.

The reports that are to be submitted according to this bill cover cash grain. I can not see the point of that. It seems to me that they should merely apply to transactions in the futures market. I can not see anything that would be gained by a line elevator company reporting its transactions in buying cash wheat in the country every day. That has no bearing whatever that I can see on the question of correcting abuses in the futures market.

The CHAIRMAN. Do you think that the bill in that respect is broader than necessary?

Mr. SMITH. Yes, sir.

The CHAIRMAN. And confers more authority than is necessary?

Mr. SMITH. Yes, sir.

The CHAIRMAN. How would you do it? Would you confine it strictly to operations on the board of trade?

Mr. SMITH. I would confine it strictly to operations in the futures market, and not touch the cash transactions at all.

The CHAIRMAN. Well, if we only made that limitation, would not that bring in the elevator, and would not that take in every man who hedged everywhere? He would have to report.

Mr. SMITH. He would have to report the orders that were placed or executed in the pit.

The CHAIRMAN. All right.

Mr. SMITH. At this point, Mr. Chairman, I desire to submit something that I wrote about the Liverpool market in 1907, after studying conditions there. This was published in 1908. I wish to put in the record one point which I desire to discuss when I come to it.

The CHAIRMAN. All right.

Mr. SMITH (reading):

LIVERPOOL GRAIN EXCHANGE.

Liverpool, buying wheat in all quarters of the world, and also having a market for trading in futures, exerts an influence on prices in all exporting countries. It has an individuality possessed by no other, for it is the central market of the world.

A peculiarity of this great market, the Liverpool Corn Trade Association, as the exchange is called, is the seemingly ordinary, businesslike appearance and lack of all rush and excitement, strain and nervous tension, such as is always in evidence on the Chicago Board of Trade.

There is no pit in the Liverpool Exchange and no noisy trading or demonstration of any kind. The room in which the futures trading is done is very small, as compared

with American exchanges, and the members or their representatives stand around in conversational groups, during times of no special activity.

The hours of the exchange are from 10.30 to 4.15, but from 1 to 3 the room will often be deserted for luncheon. There can be, in fact, no better illustration of the difference between this market and American exchanges in "speculative atmosphere" than this. Here, the sessions are long and lacking in excitement and intense interest. In America they are short, and few traders think of going to luncheon until the gong rings at 1.15. In Liverpool there may be thousands at stake in the market, but it is as if it were in real estate—the turns of the market are slow. In America the market is watched like a throw of the dice.

One is much impressed with the absence of everything connected with a grain exchange in America. There are no brokers' offices about, with rooms for customers, blackboards and quotations and gossip, tickers and private wires. Neither in the exchange room is there anything to indicate that this is a great market. Two or three small blackboards display as many Liverpool quotations, while Paris and Berlin quotations are posted on sheets of paper. Chicago quotations at 20 minutes after the opening in Chicago are received at about 4 o'clock. Their appearance excites some interest, to the extent, at least, that everyone wants to see them.

During a good season, or a period of healthy activity, an average day's trading on the Liverpool Exchange will amount to 1,500,000 bushels. At such times a quarter of a million may be traded in without affecting prices. The Liverpool market is growing, but perhaps more toward legitimate business than purely speculative.

It is generally believed around American exchanges that the big traders in America will, when trying to bull or bear the price, send orders here to first influence this market.

When asked if this were true, several members of the Liverpool Exchange said that it is. At times of manipulation in America, big orders will be received here, 400,000 to 500,000 bushels. These will give the desired trend to Liverpool, with the hope that American markets will be influenced.

The basis for speculative and future trading is the wheat on passage, just as at Chicago it is the wheat in elevators.

Differences in future trades are adjusted in the clearing house, and margins are called daily.

The minimum amount traded in in the Liverpool future market is 5,000 centals, or 8,333 bushels.

The Liverpool "spot" or cash wheat market is in a large room adjoining the Exchange room; and it is an important market. The room is crowded with small tables or stands, on which samples are displayed. The market is held only twice a week, on Tuesdays and Fridays. On these days millers come from all parts of the northern half of England to buy wheat and other grain.

The grain sold here may be in warehouses or elevators, or in steamers just arrived, or it may be on the quay, just unloaded. Wherever it is, it will be sacked, 250 pounds to the sack, for shipment.

Wheat is unloaded from the steamers in bulk on the quay when it is to be shipped inland. It may lie there free of charge for three days. The cost of sacking and placing on carts is three-fourths cent per bushel, which is paid by the buyer.

There is a large speculative business in the Liverpool market; but, unlike in America, speculation is confined to the grain trade. In fact, this is true of all European markets except Budapest. * * *

The import grain business is largely speculative. Cargoes of wheat are bought, by the great importers in America, Argentina, Australia, Russia, and India and the grain will be from one to four months on the ocean. It is quite impossible for the importer to turn around and sell his cargo at a profit the instant he has completed his purchase. It is therefore a speculation, although the business is perfectly legitimate; but the risk is greater than many a mere speculator would care to take.

Short selling is also a feature of the market. Dealers, knowing that wheat is always on ocean passage and that it can be bought at some price, will sell wheat of standard grade and quality to other dealers before they have themselves bought it, expecting to buy it cheaper. Having made the sale, they will, in due time, set about to buy the wheat from some importer who wishes to sell his cargo before it arrives or from some other speculator. The purchase is made either at a profit or at a loss, and in due time the man who sold short will deliver the actual wheat, if he has not himself passed the transaction along to still another speculator. Eventually, however, some bona fide purchaser receives the actual wheat.

The basis or contract grade for all trades was, until June 1, 1907, Manitoba No. 1 hard, and the quotations seen in any part of the world for Liverpool May wheat, for instance, indicated that variety and grade.

This grade of wheat was never delivered, however, nor was it expected. It was merely used as a basis or standard. This was designated as A grade. There were three other grades, B, C, and D, each with several subdivisions, any one of which might be delivered on contracts at a certain difference in price.

The point that I wish to emphasize in that connection is that American manipulators trade in other markets to keep them in line with the American markets. They do the same thing with the Buenos Aires market. They sent orders there.

That finishes the general discussion, Senator, except to touch on some points made by others who have appeared here as witnesses. I will speak just a moment on each one of these points.

We frequently hear the expression, "the law of supply and demand." One might ask whether that refers to futures or to cash grain. Sentiment is the most powerful influence in the market system. Wheat importers and flour buyers, when they are scared badly enough, will "buy like drunken sailors"; but when they lose confidence in the stability of prices they will not buy at any price until actually forced by necessity to do so.

Now, manipulators play on this phase of human nature, so that the seeming law of supply and demand is often merely a psychological condition.

As to short selling, I touched upon that a while ago.

In regard to the statement that everything that is sold must be bought back, I think I have covered also.

As to the statement that the market rebounds after a few days—it did not in April, until it had declined 35 cents. As it was going down, it caused this very lack of confidence that I speak of, which brings about the ceasation of the buying of flour and grain, except as necessity actually compels.

Here is a statement that has been made:

Anything that limits the volume of trading takes away from the hedging value of the market and reacts on the producer.

Heavy speculation such as is witnessed in bull or bear markets brings a great volume of trading into the market in a short space of time. It does not help the market and could be eliminated without injury to hedging. Sometimes there is too much speculative trading, and, again, there is not enough. At times, the market is too narrow to be a good hedging market, because there is not speculation enough; but excessive speculation in vast volumes when it is not needed would not help the times when the market is too narrow.

Mr. Barnes made the remark that the time may come when there will be a better market system, but that is not in sight. As to that, one might ask, will it come full fledged as a new system, or will it be an evolution from the present system? Why not eliminate the abuses from the present system and have a perfect market system?

"Incompetent speculators" have been mentioned here.

This touches on the ethical side of speculation. I do not see that it has any place in the discussion of the markets in connection with this bill.

Another evil in the market system, or an abuse of the system, is that of brokers who are permitted to trade for themselves. There is nothing in the bill that touches on this, but I should like to put it on record that no broker should be permitted to trade for himself, and no scalper should be permitted to execute orders for others.

This is an abuse that is very serious, but there would be no use in entering into a discussion of that here, because the bill does not cover it.

On the London Stock Exchange the active members are, in the main, stock jobbers and brokers. Brokers execute orders for others, while stock jobbers are always ready to trade and will quote a price on any stock that is regularly traded in. They make the market, but they have not the license that scalpers in the grain exchanges in this country have. Scalpers in our grain pits go vastly further than to make a market. They often lead the market. When trading in the pit is light they will raid the market one way or the other—put it up a few cents or put it down a few cents. The right kind of supervision would be some check on the activities of the scalpers.

There is just one more point that I wish to make, and this is not touched upon in the bill, but it is one of the most vital things in the whole system of futures markets, as I see it. That is the question of the grades of wheat that are deliverable on contracts made in the futures market. I think the average price of wheat can be influenced to a considerable degree by the grades that are deliverable on contracts made in the futures markets. I think the excessive premiums on cash wheat that we have seen in the last year were largely because No. 3 wheat is deliverable on contracts. In the Northwest the farmer gets part of the premium that is paid in the cash markets, but it can not all be reflected back to the farmer. In confirmation of this view, I will say that the Minneapolis Grain Exchange is now considering making Nos. 1 and 2 the contract grades.

That is all, Mr. Chairman.

Senator CAPPER. Mr. Smith, you have been in touch with the efforts made in Congress during the last 15 years, say, to secure legislation on this subject and you are somewhat familiar with the various measures that have been introduced, have you not?

Mr. SMITH. In a general way, yes, Senator, and I have read considerable of the testimony.

Senator CAPPER. What is your opinion of the present measure as a constructive measure, offering a practical plan for eliminating the evils that are complained of in the grain marketing system?

Mr. SMITH. I think that this bill, if enacted into law, would be very beneficial, and particularly if there is a definite limit placed by Congress on open speculative trades.

The CHAIRMAN. That is all, Mr. Smith.

Mr. SMITH. Thank you.

The CHAIRMAN. We will now hear Mr. Moses.

STATEMENT OF MR. L. E. MOSES, OF KANSAS CITY, MO.

Mr. MOSES. I did not come here with the idea of making a statement, but I am interested in the marketing of wheat products.

The CHAIRMAN. What is your business?

Mr. MOSES. I am president of the Kansas Flour Mills Co.; also president of the Southwestern Millers' League, which is an association of millers having a membership in the States of Kansas, Nebraska, Oklahoma, Colorado, Texas, and Missouri, comprising about 225 members.

The millers of the United States, or those in our section, are keenly interested in trying to establish a stabilized market. We believe it would be of benefit to the grain producer, to the initiative grain handler, and the miller.

The widely fluctuating market of the past year has seriously handicapped the marketing of wheat and its products. It has rendered the products of wheat one of the most unstable commodities that have been dealt in by the merchants of the United States. The flour buyer purchases a car of flour to-day. By the time it arrives at destination, he may have a loss of $1 or $1.50 per barrel on it.

It is true the market of the past year has had a downward tendency. Probably it would have been downward regardless of any marketing condition.

We had a fair illustration of what unrestricted option trading will lead to in the last May option deal. The May option was sold down, very much more wheat was sold than it was possible to deliver, and during this downward tendency the producer was obliged to sell on the declining market as he had teams available or his financial interest required him to market that grain.

You have already read of the official outcome of the May option, wherein there was an advance of from 30 to 40 cents at the close of May. I do not see where the producer got any benefit from that advance.

If it is possible to have any regulation of unrestricted speculative trading, it should be had.

I do not condemn the grain exchanges. They serve a purpose in the marketing of the farm products and the distribution of them, but I do think that option trading, which, at its initiation, was the servant, has become the master.

The previous witness made a statement in which he said that there was a premium to carry on cash wheat. Why should that be possible? Cash wheat should be the controlling factor, not the option trading. The worth of cash wheat should control the options, but there has been permitted by the grain exchanges almost unrestricted option trading. A man may go in and buy anything he wants or sell anything he wants.

The grain exchanges have not, in my estimation, control of their own members, especially during this past year of deflation of prices and the torn world conditions.

The previous witness spoke somewhat of the Liverpool market, that he recognized that Liverpool is a buyer's market, and the United States grain exchanges should be a seller's market; that is, they should operate only to sell the surplus of wheat that we produce over and above our domestic requirements.

To-day I think the principal hedging, as it is called, of the entire world is done in the United States. I can not for the life of me see why our producers and our dealers in wheat, should be subject to having all of the wheat of the world hedged in the United States markets. It creates a condition that, in my estimation, is economically unsound. Our markets should represent the worth of our surplus that we send abroad and they should only deal in our own wheat. I see no reason why our markets should be subjected to having the Australian wheat that may be sold to a Liverpool house hedged in Chicago. I see no reason why Canadian wheat should be hedged in Chicago, Kansas City, Minneapolis, and other markets that are open.

It is perfectly right that contractual relationships should be entered into between the owner of the wheat and the prospective buyer of the wheat. They should be called options, if they so desire.

The system of wheat dealing is entirely different from that of a stock exchange, in that they must show evidence of ownership through either borrowed stock or some other means of getting it at the settlement the next day. If we should limit our option trading to the actual wheat that was in evidence, there would be no speculative trading. There could be no unrestricted trading. It would have to be wheat that is in shape to deliver.

The marketing of wheat is also tied up largely with rates of transportation not only for our domestic use but for our export. To-day, wheat in the Southwest can not be delivered in Chicago or sold on the Chicago market with safety to the owner. It is bought on the basis of what it is worth to millers to market the products of that wheat at different parts of the United States and also what it is worth to exporters to market that wheat through the Gulf. The rates of freight to deliver that wheat if we would hedge in Chicago or Minneapolis or even Kansas City would entail a loss to the owner. Therefore, he does not expect to deliver the wheat when he hedges his purchase.

There is only one market in the United States, so far as the transportation situation is concerned, that is located correctly, and that is Minneapolis, for the Northwest. There is a transportation flow through Minneapolis for the stream of wheat without a loss in transit by freight rates. Even Kansas City has a penalty to ship wheat from southern Kansas to Kansas City and reship that to the Gulf for export. Therefore, the delivery can not be made.

As a merchant and as a miller, I think it would be of benefit to the consumers, to the initiative grain dealer and to the miller to have some restriction along some lines placed upon option trading.

I do not wish to go on record as opposed to option trading entirely. I think it would be unconstitutional to even think of it, because you can not take away the right of one citizen to deal with another for future delivery or immediate delivery.

The first Capper-Tincher bill that was presented, I thought, was very fair. I would prefer it to the present one, on account of its stating what we can do and what we can not do. The bill that is now under consideration will throw into the department's hands, and it would subject the grain exchanges to regulation day by day of which they do not know, but yet, if it is fairly adminsitered, some of the evils that now exist may be eradicated. I think it would do no harm to give it a trial. It would possibly eliminate some of the undue speculation.

To-day we have cash wheat in Kansas City that is probably worth an average of $1.40. On September wheat I do not know the exact quotation to-day, but for September delivery it is around $1.10. In other words, anyone buying wheat and expecting to hold it until September and attempting to hedge it, might lose 30 cents a bushel. That has been the condition of trading since July 15, when the options trade opened up last year.

If the boards of trade would make a rule that no future trading can be entered into at a less price than what cash wheat is worth, it would eliminate option trading.

The raiding is done on the bear side, on the downward side. The real owner of the wheat, the dealers in wheat, do not want to buy wheat if they have enough of it. The miller usually has enough wheat to cover his sales. We are not obliged to buy any more wheat than what we sell as flour. Therefore, we can stay out of the market if we so desire, but it is our customers that suffer, and our relationship with the flour dealer that handicaps our merchandizing of our products along the lines of other merchants and other manufacturers. It creates a speculative element in the United States that should be taken away from our industries, taken away from our citizenship.

Senator CAPPER. Mr. Moses, I take it that you feel that this bill does not go quite as far as it should in eliminating the evils of the present grain exchange system?

Mr. MOSES. Senator Capper, as I wrote you, I thought your first bill was the best bill for the benefit of the people of the United States, but that did not seem to meet with the views of Congress, so it could not be passed.

Senator CAPPER. Do you think this bill would be helpful if put into operation?

Mr. MOSES. I believe this, that if this bill is passed, if conditions warranted it, the Secretary of Agriculture would be called upon to correct some of the speculative abuses in dealing in food products.

Senator CAPPER. And some good would come out of it, you think?

Mr. MOSES. I do not think any harm would come out of it. I hope that some good would come out of it. If you can eliminate undue speculation in any food commodity, it would be a benefit to the people of the United States.

Senator CAPPER. This bill has a provision which requires the board of trade to make rules for the prevention of manipulation of prices by the dealers or operators upon such boards. What do you think of that provision?

Mr. MOSES. Well, it will be very hard for the Secretary of Agriculture or any of his force, in my estimation, to determine whether a sale is along the lines of manipulation or actually warranted.

Senator CAPPER. This bill requires the governing boards of the grain exchanges to make rules to prevent the dissemination of false, misleading, and inaccurate reports concerning the crop or market information.

Mr. MOSES. That might be a benefit. I think it would be. They would be a little more careful of what we term "market dope" that they put out.

Senator CAPPER. It also requires the board of trade to keep a record of all transactions.

Mr. MOSES. That undoubtedly should be done.

Senator CAPPER. How is that?

Mr. MOSES. That should be done. I do not see any reason why it should not be.

Senator CAPPER. So that there are many features of this bill to be commended, are there not?

Mr. MOSES. I think it might reach this undue speculation in wheat. I see no reason why a banker or a lawyer or a doctor or a blacksmith

or a clerk should be interested in marketing wheat, or that our trade relationship in purchasing wheat from the consumer or producer and selling its products or the wheat itself to the ultimate consumer should be dealt in by those who are not interested in it; I can not, for the life of me. I do not go out and buy iron. I am not dealing in iron. You don't. But if it were restricted to those who are actually interested in marketing that wheat, there would be no undue speculation. There could not be, because if I bought 100,000 bushels of wheat and if I thought it was worth the money as a business man I would not sell that wheat for future delivery at 30 cents below what it cost me, or I would not buy it in the first place; I would say, "My wheat is worth what I paid for it." If I did not think it was worth that I would not buy it. I surely would not turn around and sell it for 30 cents a bushel less in two or three months.

I believe that out of this kind of a bill might come a regulation of speculative trading. I do not mean actual legitimate transactions on the board of trade, but this unrestricted speculative trading might be eliminated through that bill. That is, according to the administration of it by the Secretary of Agriculture.

Senator CAPPER. The bill levies a tax of 20 cents on all transactions in puts and calls, privileges, bids, offers, and indemnities. Do you think that would be helpful?

Mr. MOSES. I should think that the boards of trade could get along without those puts and calls; yes, sir.

Senator CAPPER. And you really think that practice ought to be stopped?

Mr. MOSES. I think it should be absolutely eliminated from the scheme. It is only an overnight or a week or a month guess at the market.

Senator CAPPER. That is pure gambling, is it not, the puts and calls?

Mr. MOSES. It could be called that, if you wish to do so. I call it speculation. It might be termed gambling, if you wish to use that word.

Senator CAPPER. That is all.

The CHAIRMAN. Is that all, Mr. Moses?

Mr. MOSES. That is all I have to say.

The CHAIRMAN. We are much obliged to you.

Mr. MOSES. Thank you.

The CHAIRMAN. We will adjourn here until 2.30 o'clock.

(Thereupon, at 1 o'clock p. m., a recess was taken until 2.30 o'clock p. m.)

AFTER RECESS.

The committee reassembled at 2.30 o'clock p. m. and immediately adjourned until to-morrow, Wednesday, June 8, 1921, at 10.30 o'clock a. m.

FUTURE TRADING IN GRAIN.

WEDNESDAY, JUNE 8, 1921.

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE AND FORESTRY,
Washington, D. C.

The committee was called to order by the chairman (Senator George W. Norris) at 10.30 o'clock a. m.

Present: Senators McNary, Capper, Keyes, Gooding, Ladd, Norbeck, Smith, and Kendrick.

The CHAIRMAN. The committee will come to order. All right, Mr. Wells, you may proceed with your statement.

Mr. WELLS. Mr. Chairman, before I start my statement, I would like to introduce into the record, at the request of the president of the Toledo Produce Exchange, the following message:

TOLEDO, OHIO, *May 28, 1921.*

F. B. WELLS,
1020 Munsey Building, Washington, D. C.:

Toledo Produce Exchange members wish to vigorously protest against passage of future trading bill in its present form. Especially part giving Secretary of Agriculture unlimited powers in regard to grain exchanges. Owing to world's present condition we do not think it good business to pass restrictive business bills of this nature. Please file this message with chairman Senate committee.

H. R. DEVORE,
President Toledo Produce Exchange.

STATEMENT OF MR. F. B. WELLS, VICE PRESIDENT F. H. PEAVEY & CO., MINNEAPOLIS, MINN.

Mr. WELLS. In making my statement this morning, gentlemen, with your permission I will present it in the following form: First, a general résumé of the future trading operations as viewed from a hedger's point of view; second, in order that the members of the committee may be present at the time, I would like to introduce some suggestions for amendments; and third, I would like to pass over briefly, with comment, the testimony which has been offered by proponents of the legislation in its present form.

In order that you may judge clearly as to my attitude and the interests which affect me, I would like to state that the hedging markets mean for me price insurance only.

I am engaged in the business of operating warehouses both at country points and at large terminals for the storage of grain. I purchase grain from the producer at country points and on the market at terminals, and carry that grain until such time as it is needed for consumption or shipment.

I am not engaged in the commission business, either in cash grain or in futures. My sole interest, therefore, in the future markets lies in the protection against decline in price which they afford me.

While I think there is general agreement on the proposition that the hedging markets perform a valuable economic function, I would like to summarize very briefly the points, which, in my judgment, best demonstrate the value of such markets, and I would place first and foremost the elimination of price interest on the part of the buyer.

Grain is the only commodity with which I am acquainted wherein the price made by the buyer is not a matter of barter or trade. In the case of grain it is immaterial to the buyer whether he pays $1 or $5 a bushel, be the buyer an elevator man or a miller, for the simple reason that at the same time he makes his cash purchase he also sells futures to insure himself against a decline. It is perfectly obvious that with this protection the grain merchant and the miller are enabled to operate on a very much narrower margin than if the price contemplated a possible decline in the market.

The second valuable point in my mind in connection with the futures or hedging markets is the dissemination of price information. Every day, throughout the country, the papers quote the closing markets both for futures and cash grain. Any farmer at any country point, knowing his freight rate to the terminal, can determine very accurately whether the buyer is exacting too great a margin or not, and they do determine it, because, if for reasons beyond the ken of the producer, the margin is widened beyond that normally existing, we immediately hear from the country points.

The third feature, which is of great importance, is that this system of price insurance insures to the producer a constant market for his grain. It has been the boast of the grain trade of this country, and it has been the boast of the banking interests of this country, that every day in the year any farmer could sell for cash any quantity of grain which he cared to offer at a country station. That condition has made liquid the grain crops of this country to a degree that does not exist in any other farm produce. And, from the producer's point of view, I think it is one of the most important advantages of the hedging market.

As a result of the hedging market, we also have a narrowing of trade margins, as a result of the insurance against market fluctuations. As I stated before, it is perfectly obvious that if a grain dealer or a miller can protect himself against a decline in the market by the sale of a hedge, he is in a position to operate on a narrower margin; and, conversely, if a miller can sell to the consumer of flour and immediately protect himself by the purchase of a wheat future, he can reduce his profit to what is merely a manufacturing margin, and he does not have to assume a merchandising risk.

Perhaps next to the direct influences on the producer, the most important fact in connection with the hedging market is the ease with which the grain business is financed under existing conditions. With insurance against decline in price, it is possible for a man with a very limited capital—almost no capital, you may say, other than his fixed investment—to engage in the grain business, and that this is the practice, and that it is a growing practice, is evidenced by the fact that in the Northwestern States, where I am familiar with conditions, over 50 per cent of the country elevators are operated either by independent dealers located at country points, or by groups of farmers in a so-called farmers' elevator company, or by cooperative associations.

In the last 10 years there has been no growth in the number of so-

called line elevators; that is, elevators which are operated by central agencies in the terminal markets. The entire growth has been in the independent, farmers' and cooperative elevators, and among those groups the independents have lessened in number and the cooperatives have increased.

In connection with the financing, I would say that if you are to eliminate the price insurance, insurance against decline in the market, you automatically reduce the buying power of the mills and grain concerns in this country anywhere from 25 to 50 per cent, according to their financial standing. You immediately throw upon the farmer the necessity of shipping his grain to a terminal market, and there await a buyer; whereas, to-day, any hour of the day, he can sell his grain for cash at a price which bears a very proper relation to its terminal value.

Senator CAPPER. Mr. Wells, may I interrupt you for just a moment? You understand, of course, that this bill does not attempt in any way to limit hedging?

Mr. WELLS. Yes; I understand it does not.

Senator CAPPER. Your argument seems to be entirely directed to the hedging feature of it.

Mr. WELLS. The reason I am bringing out these points, Senator Capper, is that I wish to impress upon you the danger of doing anything which will disturb this hedging facility.

The last point in connection with the hedging markets, which is clearly of great value, is the function which they perform in the economic distribution of the grain crops. It follows that if there is a shortage of grain in one section of the country, we will say in the Northwest, the markets in the Northwest will rule higher relatively than the markets in other sections of the country. Consequently the flow of grain is toward the point of shortage. During the period of Government control we witnessed what happens when artificial distribution is injected. We saw, for instance, in the Northwest a part of our spring wheat crop moving over the Great Lakes for export, which resulted in a shortage of milling wheat later in the year and the necessity of bringing from the Pacific coast a large volume of wheat to take the place of the supplies which had been moved forward.

That sort of distribution is, on the face of it, economically unsound and entails a great expense and a loss that eventually falls upon the producer.

Passing from the advantages offered by the hedging market, we come to the consideration of what is necessary in order to have a satisfactory hedging market, and I will make the general statement that unless we have a broad, liquid, constant market, its value for hedging purposes is very questionable. You can readily see that if in effecting a hedge the execution of the orders should be delayed for several minutes, even, a risk is introduced which must inevitably widen the trade margin. The market, to be desirable and to be of practical value for hedging purposes, must be so broad and liquid that it will absorb, without material change, any quantity of grain involved in ordinary commercial transactions; and when you consider the size of the units which are commonly used in commercial transactions, you will appreciate what this means.

For instance, a cargo of wheat to-day on the Great Lakes means from 250,000 to 350,000 bushels. When I started in business 30 years ago a cargo of wheat was 75,000 bushels, perhaps, and it is not at all extraordinary that the units traded in in cash grain, and consequently the hedges transferred, bought in, or sold would run from 500,000 bushels up to 1,000,000 bushels.

Now, if we are to have an opportunity for a liquid market, I make the statement, without fear of contradiction, we must have in that market traders of a class other than grain dealers and millers and exporters, for the reason that the demand for grain is periodic, as has been stated to you before, and the movement is seasonal.

Seventy-five per cent of the grain crops of this country move within a period of four months after the harvest. The surplus supply must be carried until such time as it is needed for consumption in this country or for export.

It is easy enough to make a general statement of this sort, and to a man in the business it is conclusive, but I would like to cite as an example of the necessity of the speculator in the market—for the speculator is the class of trader other than the grain merchant or miller who enters the market—the instance of what occurs in the Northwest during the months of September, October, and November of each year.

For five years the average receipts of wheat in the Minneapolis market during those months have been 469 cars per day, which is equivalent, practically, to 500,000 bushels. The average milling requirements, the consumption requirements, in the market aggregate about 350,000 bushels a day. So the surplus arrivals over current demand would be about 150,000 bushels.

For the sake of argument, we will say that that 150,000 bushels could be taken care of by shippers, because there are east and southwest of Minneapolis a large number of mills in the interior which buy their supplies of wheat in Minneapolis. On that assumption, the current arrivals during the months of September, October, and November provide for the current requirements, but there are in the territory immediately tributary to Minneapolis some 5,600 country elevators, over 50 per cent of which are owned by farmers, independent dealers, or cooperative associations.

In the southern part of the territory some of these elevators purchase comparatively little wheat. So we will say that one-fourth of the elevators are not handling wheat in large volume. This would leave 4,200 elevators in the territory tributary to Minneapolis purchasing wheat in volume during the months of question—an average of 500 bushels per house per day, which would be only 10 to 15 loads, which would be a very moderate estimate of their purchases. On this assumption we have purchases of 2,500,000 bushels per day.

The Federal Trade Report would indicate that at least 75 per cent of this wheat is hedged. The percentage of country elevators who use the hedge varies from 94 per cent in North Dakota down to about 70 per cent, I think, in Minnesota and South Dakota, but the average would be conservatively 75 per cent; so that there would be something over 1,500,000 bushels of hedges per day to be absorbed by some one.

The mills during a part of the time are buyers of futures, but as Mr. Crosby showed in his statement the other day, they are as often

sellers of futures against stocks of wheat which they accumulate, and against which they have no flour sales. There must be a buyer for these 1,500,000 bushels of hedges. If not, the inevitable result is that the wheat will sink to a point where it will move out for export in competition with the rest of the world, or will move to some higher market within the United States, with the result that the basing price for the farmer will be correspondingly reduced, because the wheat would then be bought on the basis of a market farther removed from the wheat fields and with a corresponding increase in freight toll.

You might ask: "Well, does not the terminal elevator buy this surplus of wheat that moves to market during the months of surplus supply?" I would like to call your attention to the fact that the terminal elevator can not be considered a factor, because, when they buy cash wheat they immediately sell futures, and there must again be some one to absorb those futures.

It seems rather curious to me, perhaps, because I have spent my life in the grain trade, that there should be so much talk about speculation in farm products. The speculator exists in every line of business with which I am acquainted, and there are very close parallels in some lines of business to the conditions that exist in the grain markets. Take it in a very small way, but it is a very close parallel, it seems to me: In Minnesota the State sells all school lands at auction. The purchasers pay 15 per cent of the selling price in cash and receive a certificate, which is transferable. No title passes, and they have 40 years in which to make the balance of the payments. I checked it up at the State auditor's office last year, and I found that those certificates change hands anywhere from 5 to 25 times. The speculator originally bought the land, and he held it because he thought it was going higher.

Senator CAPPER. But there is no school-land pit in Minneapolis, is there?

Mr. WELLS. Not a pit.

No title passes; none of the holders of that certificate have title to the land until the ultimate purchaser of the certificate takes title to the land and pays the unpaid balance of the purchase price.

Again, we have a very familiar illustration of the assumption of risk by those not directly engaged in the business in insurance at Lloyd's in London.

Some time ago the insurance on the elevator properties in which I am interested was placed with Lloyd's in London, owing to some difficulty over rates in this country, and the policy which was issued was extremely interesting. I think the amount covered was something about £1,000,000, which at that time, represented some four million and a half dollars. That risk was divided among at least 50 groups of men. There are groups of underwriters at Lloyd's. Lloyd's is very much like an American exchange; it transacts no business; it looks after the moral fitness and financial stability of its members and sees that the rules and regulations are adhered to. There are at least 50 offices represented on that policy, and in those offices were groups of from 3 to 10 or 15 men, each man assuming a proportionate part of the risk of the amount which his office underwrote. One office might take £50,000, and that would be divided into twenty-fifths among 25 individuals. Another office would take

£500,000 and it might be divided into hundredths among a hundred different individuals in that office, and so it was. Those men had no interest in the elevator properties. They were simply, to use the parlance that seems to be most popular, betting that the properties would not burn.

The only difference between those men and speculators in the grain exchange is that they received a fixed amount for assuming the risk, whereas the speculator in the grain pit backs his opinion that he will receive something for assuming the risk. The principle involved is the same. The underwriter at Lloyd's assumes the risk which the owner of the property does not feel that he can carry. The speculator in the grain exchange assumes a risk which the owner of the property does not feel that he can carry.

Senator GOODING. Mr. Chairman, I would like to ask a question in regard to the Minnesota land. When that sale passes to the party holding the certificate, the certificate bears a certain rate of interest, does it not?

Mr. WELLS. No.

Senator GOODING. There is no interest at all on the sale of the land?

Mr. WELLS. There is interest on the deferred payments. I beg your pardon.

Senator GOODING. That is what I mean.

Mr. WELLS. Yes, sir.

Senator GOODING. So in that respect it would be entirely different from a purchase of wheat in the pit.

Mr. WELLS. Well, it is different in that respect. My point was that no title passes with the certificate.

Senator GOODING. Yes; I think that is true in all the States. It is true in Idaho.

Mr. WELLS. Yes.

Now, one of two things is necessary—either the producer must become a speculator and assume the risk of ownership of his grain, or there must be introduced into the grain trade an element which, with the hope of gain, will assume that risk temporarily. The grain merchant and the miller can only assume the risk in a very restricted way. Financially, it would be impossible for a large milling concern or for a large elevator concern to assume the risk of ownership of the grain without insurance against a price decline, unless they purchase the grain at such a low price that they figure the risk is reduced to the minimum.

This problem, gentlemen, is not a new problem, as you know. Reference has been repeatedly made to the various hearings and investigations which have gone on from time to time, but it is a very curious thing that some 24 years ago the same condition existed in the agricultural communities of this country as exists to-day. A great agrarian movement was on. At that time the Populists were much in evidence. The farmers complained of the low prices of their products, and, as a result, Congress appointed a joint commission of the Senate and House to investigate the problem.

Senator J. H. Kyle, of South Dakota, who was, as you know, a Populist, was the chairman of that commission. They spent some three years in investigating the general marketing problem. They published a report known as the Report of the Industrial Commission, which, I believe, is the most comprehensive report that has ever

been published on this matter. You may say that that report was published 24 years ago. Well, the report, as a matter of fact, was published in 1901, I think. But you may ask what bearing it has on existing conditions. It has an exact bearing on the conditions existing to-day.

The volume of speculation in 1901 was as great as or greater than it is to-day. In fact, since the late eighties there has been a reduction in the volume of speculation, notwithstanding that there has been an increase in the production of grains, and that, I think, is accounted for by the fact that little by little the grain people of the country in different localities have become educated to the hedging system, and have availed themselves of it in all the markets.

The CHAIRMAN. Mr. Wells, that leads me to ask you this question: Was the variation between the price that the producer received at that time and the price that the consumer or the miller paid as great or greater than it is now?

Mr. WELLS. Yes, sir; I would not say it was greater than it is to-day, because we are operating under abnormal conditions, but taking the prewar period, immediately——

The CHAIRMAN. Yes.

Mr. WELLS. The variation was greater.

The CHAIRMAN. The variation was greater?

Mr. WELLS. Yes.

The CHAIRMAN. The speculation was greater at that time. Now, does not that refute your argument that the speculation has a tendency to make the market more stable?

Mr. WELLS. No; I think not, Mr. Chairman, for this reason, that since that time there has been a tremendous development in the purchasing elements in the grain business. Since that time there have been introduced a very large number of buyers into the grain business that did not exist at that time. For instance, this whole farmers' movement which now constitutes over 50 per cent of the Northwestern country buyers has come into being since that time.

The CHAIRMAN. Yes; but there is less speculation.

Mr. WELLS. There is less speculation in proportion to the total crop.

The CHAIRMAN. Yes; and the margin since they have had less speculation is less than it was when——

Mr. WELLS. Yes; but speculation has been adequate. At that time corners in grain were a yearly occurrence. Manipulation was prevalent.

The CHAIRMAN. Yes; and speculation was unlimited. Now, if, since that, it has decreased and the volume increased, and the market has been more stable than it was before, would it not follow that if we reduced the speculation still more, which this bill tries to do, we could get further toward reaching the ideal, which will make the spread less between the producer and the consumer?

Mr. WELLS. I think not, because the very conditions which are complained of to-day, the apparent fluctuations in the market, are the result not of overspeculation but of the lack of it. The markets are not broad enough to absorb all the commercial transactions.

The CHAIRMAN. Well, you used that illustration to demonstrate the proposition. You are talking about the necessity now of speculation to make the market stable, and you do not want to interfere

with it for fear the market will become more unstable; yet your own illustration shows that when speculation has been reduced the market has become more stable than it was before with unlimited speculation, and there have been less corners.

Mr. WELLS. No; I think I did not make myself clear.

This year, since July, for instance, since the opening of the market, one of the greatest troubles has been the lack of speculation in the market. To that is accountable the rapid fluctuation, because the buyer and seller do not meet.

The CHAIRMAN. Yes; but you say that this year there is an abnormal condition.

Mr. WELLS. Yes; this is an abnormal condition.

The CHAIRMAN. And you did not take that as a fair illustration?

Senator GOODING. Mr. Chairman, the trouble, then, seems to be that these speculators can not be depended upon.

Mr. WELLS. Well, as far as I can see——

Senator GOODING. Sometimes they are good, and sometimes they are bad.

Mr. WELLS. I would not say sometimes they are good and sometimes they are bad. I would say that sometimes they are there, and sometimes they are not.

Senator GOODING. Well, that is the same situation, and that leads to an unstable condition, does it not?

Mr. WELLS. Well, it does in everything. The declines have been more rapid and more violent in other commodities and farm products than they have in grain.

Senator GOODING. Well, there is an uncertainty in the market which this bill is going to try to prevent.

Senator CAPPER. The public are getting onto the game, you understand. A large percentage of those who chanced their money in it lost what they put in, and that has had something to do with the decline in volume of speculation?

Mr. WELLS. No; I think the decline in volume of grain speculation has been due to the fact that other and more attractive fields have been open to speculation. For instance, I was told by an investment banker last winter, when I was down here at the hearings, that out in Iowa, South Dakota, and Nebraska $500,000,000 have been taken for the purchase of comparatively worthless securities—oil stocks, tire company stocks, packing houses, and all that sort of thing—and I asked Congressman Dickinson of Iowa if he thought that was a fair statement, and he said he thought it was. That sort of speculation is another factor.

Senator CAPPER. What percentage of those who speculate or gamble on the boards of trade do you think win out in the game?

Mr. WELLS. I have not the slightest idea. I have never had a speculative trade in my life.

Senator CAPPER. A great many more lose than win, do they not?

Mr. WELLS. I would assume so; but there are always people who are willing to invest on the basis of their judgment, apparently.

Senator CAPPER. You stress the need of a broad market, and say it is necessary that you have just as large a volume of speculation as possible, in order to assume the risk of ownership, I believe you call it, of this grain.

Mr. WELLS. Yes, sir.

Senator CAPPER. Now, I find in the local papers every day or two an advertisement of puts and calls in stocks, cotton, grain products, unlimited. This seems to be a New York concern, and they ask $10 or $20. Do you think that sort of business is necessary to make a broad market and to carry on this hedging?

Mr. WELLS. I think that sort of business is absolutely unnecessary. I think it is unwarranted.

Senator CAPPER. That is one of the evils that this bill attempts to correct.

Mr. WELLS. Personally, I heartily approve of the elimination of privilege trading. I do not know that you gentlemen quite appreciate what that means, or what the effect of that would be. It means just this, that the speculator, the professional speculator, who trades in 100,000 bushels of wheat, say, because of the fact that he can insure himself against a loss beyond a certain point, when deprived of that insurance, is going to be obliged to reduce the line in which he trades and, to that extent, you will eliminate pure speculation from the markets. It is a very important factor, in my judgment. I think it will have a very marked effect on the volume of speculative trading. I think that the evils which are inherent in puts and calls, because of the fact that they require a small investment, are greater than any advantages which they may offer, and I am heartily in accord with your move to tax them out of existence.

Senator CAPPER. It is not necessary, then, that we have some sort of legislation on this subject?

Mr. WELLS. Mr. Senator, I am not opposed to some legislation on the subject of grain trading or grain exchanges. I do not think any grain exchange opposes some legislation which will make that exchange directly responsible to the Government for the proper conduct of its business. I think what they resent is an interference with the internal operations of the exchange which jeopardizes the operation of the market.

I would like to go into that a little further, but before I do I would just like to quote, because it is so very appropos, one paragraph from the conclusions reached by the Industrial Commission. This is on page 222 of the report of the Industrial Commission on Distribution and Marketing of Farm Products:

> The depression in prices of agricultural products during the few years previous to 1898 has been no doubt responsible for most of the opposition to speculation in "futures." The several interests connected with the raising and marketing of these products feel that "something is wrong," and in searching for the cause of the evil naturally turn against speculation as the most prominent factor in modern business life. That the condemnation of speculation is the result of misunderstanding and bitter feeling rather than intelligent research may be seen from the fact that it is quite frequently made on conflicting grounds, according to the interests involved.
>
> It is not so many years ago since a large and representative meeting of western American farmers passed a resolution against options on the score that they unfairly tended to reduce the price of wheat, and it was just three weeks after that meeting that a convention of the National Association of American Millers, attended by some 500 members, was held in Minneapolis and passed a resolution condemning options on the ground that they unfairly raised the price of wheat.

Senator CAPPER. How long ago was this?

Mr. WELLS. I beg your pardon?

Senator CAPPER. When was this report made?

Mr. WELLS. This was submitted to Congress in 1901. The conditions were identical with those that exist to-day.

.03, while during the spring of 1911, in the months of April, May, d June, the average price of No. 1 northern wheat in the Minneapolis arket, was 97.3 cents.

The same relation exists practically throughout the years covered the table. There is a constant reference to the evils existing on ain exchanges. I do not think it is exactly fair to make that too ominent. They are not perfect machines. There is no question out that. They are all subject to human limitations. They all lect more or less the inherent desire of the individual to do the best can for himself. But they have developed remarkably, and they developing remarkably, and they do perform a most remarkable blic service.

Before we leave the speculator I would like to call your attention two more points.

In the first place, as you know, we have what is known as a visible pply of grain on hand during the year practically all of the time. have taken the period of five years, using a prewar period for wheat d the last five years for corn and oats, inasmuch as wheat was tificially distributed during the years of the war. That shows that n January 1 we had an average of wheat, corn, and oats in store at ints included in the visible supply, which are the terminal points, 93,000,000 bushels, 67,000,000 bushels on May 1 and 71,000,000 shels on October 1. Those stocks of grain are the stocks immedi- ely in sight. They do not include stocks in the country elevators mills, but they represent part of the surplus over immediate quirements.

Insurance against decline in value of those stocks of grain is carried the speculator to a very great extent. Milling concerns may rry a portion of it, but speaking by and large, the insurance against preciation in value is carried by the speculator. Don't think for minute that the speculator carries that risk very long. He does t. The speculator, when I hedge my wheat, may take all that I er. He takes it because he thinks the market is going up. He a buyer. Now, if, within two minutes, he loses confidence, he very ely will sell that wheat to half a dozen different people, even if can realize no more than the price he paid for it. They, in turn, rry the risk for a number of minutes, perhaps half an hour, or rhaps the balance of the day, and then, in turn, they will transfer e risk by selling it if their hopes are not realized.

That, in a large measure, accounts for the volume of trade, about hich so much comment has been made. This risk is not carried by e speculator for any length of time, as a rule.

Senator CAPPER. While that is going on, they all pay the toll one ay or the other.

Mr. WELLS. They pay toll; yes. The speculator who finds that the arket is not going the way he thinks it should go passes it on to the ext man. It may go the way the next man thinks it is going, in hich event he realizes a profit on his purchase. There is no com- ission paid on that business, so there is no toll in that sense of the ord. The toll is what each trader exacts from the other. The an whose judgment is bad loses; the man whose judgment is good ains; and so it goes. The net result is that none of them appar- ntly, if we can judge from appearances, ever get very rich.

Senator CAPPER. In fact, most of them are skinned.

The CHAIRMAN. You say there is no commission charged on this, such as you have been speaking of?

Mr. WELLS. The speculator is right in the pit; he is a member of the exchange. There is no commission on that at all.

The CHAIRMAN. The member of the exchange would not make a commission; he sells it himself.

Mr. WELLS. Yes; he sells it himself. There is no commission involved to the outside public at all.

The CHAIRMAN. In order that I may get the thing right, let us start with the man who buys the actual grain and then hedges.

Mr. WELLS. Yes, sir.

The CHAIRMAN. He has to pay a commission on the sale of his hedge, does he not?

Mr. WELLS. Yes, sir.

The CHAIRMAN. He may not be a member of the exchange at all.

Mr. WELLS. If he is a member he gets a half rate, the member's rate.

The CHAIRMAN. He will wire in to Chicago to have some man like yourself, who is there, sell a certain amount of wheat for him?

Mr. WELLS. Yes.

The CHAIRMAN. Now, if he wires that to you, and you make the sale, the man whom you represent at the other end of the deal may also be some fellow who does not live there and is not a member. Don't you charge him, then?

Mr. WELLS. There is a commission charge on it.

The CHAIRMAN. Are not these sales as a rule carried on through commission men for people who are not there in person themselves?

Mr. WELLS. Well, it has been testified, I think, that only 20 per cent of all the trade comes from outside of the exchange members. Personally, I am not famihliar with those details, Mr. Chairman. I think the record will show.

The CHAIRMAN. I was interested in your statement about the payment of commissions, because it seemed to me that that was always involved in every sale of the kind that you are mentioning.

Mr. WELLS. Well, these are members trading for themselves, you see.

The CHAIRMAN. I know; but just take a case as it would actually happen. Suppose I were a miller and I had bought some wheat, real wheat. Now, to protect myself I would hedge. That is, I would sell, and to do that I would wire to you, say, to sell 10,000 bushels of wheat for me.

Mr. WELLS. I would charge you a commission.

The CHAIRMAN. You would charge me a commission?

Mr. WELLS. Yes.

The CHAIRMAN. Now, perhaps you sell that to Senator McNary. You do not know to whom it is sold.

Mr. WELLS. I would sell to another commission house, probably.

The CHAIRMAN. And they would be acting for him.

Mr. WELLS. Yes; they would charge him for the purchase.

The CHAIRMAN. After he held it for a few minutes or a few hours, as you have described, he would become frightened and he would wire back to you, let us say, to have you buy some. He is hedging on his sale, or, rather, he would have you sell some. He is hedging on his purchase.

Mr. WELLS. Yes.

The CHAIRMAN. Now, would you charge him a commission?

Mr. WELLS. The natural thing would be for Senator McNary's wire to be on his own commission merchant, through whom he made the purchase.

The CHAIRMAN. Yes; I am assuming that you happen to be that man.

Mr. WELLS. I would charge him a commission; yes, sir.

Senator GOODING. Mr. Chairman, is there anything in the record to show the volume of business transacted at all of these terminals, and the hedging, showing the number of bushels that are really sold and not transferred?

The CHAIRMAN. Yes; as regards the Chicago market, there is, I think, a statement of that kind.

Senator GOODING. All right.

Mr. WELLS. Gentlemen, I have some other points that I would like to cover, but if I may break into this line of testimony and discuss the bill, and then go back to it again and conclude, I should like to do so, because I apprehend that a number of members of the committee will probably want to leave at noon.

As was stated by Mr. Morrill, the representative of the Bureau of Markets of the Department of Agriculture on the first day of the hearing, several members of the grain trade called upon the Secretary of Agriculture to discuss with him the attitude of the department toward legislation. Naturally the conversation drifted into a discussion of H. R. 5676, and the gentlemen present at that conference expressed themselves to the effect that the bill, if passed in its present form, would undoubtedly cripple the hedging markets, and might ultimately lead to their extinction. Secretary Wallace was interested from the producer's point of view, as he thought it would be a calamity to interfere with the operation of the hedging market, inasmuch as the producer's price would immediately be affected. He suggested to the gentlemen in attendance at the conference that they submit to him a memorandum embodying the changes which might be made in the bill, and which, at the same time, without affecting it materially, would remove the objections to which they had referred.

A memorandum was submitted to the Secretary and conferences were later held. As a result, a series of amendments were evolved which do not represent the suggestions offered by the grain trade in any vital particular, but do represent what the grain trade feels could be included in legislation and at the same time possibly permit the grain markets to function.

I want to state, first and foremost, that we are opposed to legislation of this character. We do not believe, first, in the introduction of Government into business, which is done in this bill to an extent never before contemplated. We do not believe in accomplishing desired results by a subterfuge, such as taxation, when no revenue can possibly be derived from the bill; and, further, we do not believe that it is desirable or safe in the public interest to place in the hands of any individual the power to cripple the entire marketing system for grain in the United States, and if the hedging market should be removed you must remember that the loser, the greatest loser, the one to receive the most serious consideration, is the producer.

Gentlemen, in order to facilitate the discussion of these amendments, we have had some bills prepared with the amendments, and also a brief, which you can look over at your leisure, if you will.

I want to say that the amendments that we will offer as suggestions have the approval of the Secretary of Agriculture and his solicitor, but they do not meet with our unqualified approval; in fact, portions of them meet with the disapproval of the grain trade.

Senator McNary. Was this brief prepared by a representative of the grain trade or by the Secretary of Agriculture, Mr. Wells?

Mr. Wells. The brief?

Senator McNary. Yes.

Mr. Wells. It was prepared by the grain trade, expressing their views on the proposed amendments.

Senator McNary. You say that these amendments all came from the mind of the Secretary of Agriculture?

Mr. Wells. The original memorandum submitted by the grain trade was not acceptable to the Secretary of Agriculture. We held numerous conferences, and we could not agree on two of the vital points, and I would say that those vital points are the question of introducing the limitation of open trades and incorporating into a bill of this character a provision which would admit cooperative societies to membership in grain exchanges on conditions other than that required of other members.

The bill as amended we might go over, I think, in detail.

The first amendment suggested has been brought to your attention during the hearing, and that is a definition of the term "future delivery," as used in the bill.

In section 2, line 11, after the word "sorghum," a period. Then insert a new sentence as follows:

The term "future delivery," as used herein, shall not be held to include any sale of cash grain for deferred shipment.

It has been suggested, I think, that there be eliminated the words. "be held to," but that is immaterial to the grain trade. I think it would be clearer, perhaps, if those words were eliminated.

Mr. McDermott, who appeared before the committee the other day, suggested in section 4, page 2, lines 21 and 22——

The Chairman. Before we leave this amendment, the amendment on page 1 that you have just read——

Mr. Wells. Yes.

The Chairman. As I understand it, there is not any objection from either side to that amendment?

Mr. Wells. No.

The Chairman. Is that right?

Mr. Wells. None at all. I am reading, Mr. Chairman, the amendments that have been approved by the Secretary of Agriculture.

The Chairman. Oh, I see.

Mr. Wells. We do not agree with some of them.

The Chairman. Well, you agree with that one?

Mr. Wells. We agree with that one; yes, sir.

On page 2, section 4, lines 21 and 22, Mr. McDermott suggested that the words "made at, on, or in an exchange, board of trade," down to the word "except" be eliminated. Those words, I understand, were inserted originally at the request of Mr. Morrill, of the

Department of Agriculture, to provide for cash trades, but inasmuch as cash trades for deferred shipment have been provided for in the definition on the previous page, we believe those words should be eliminated, because they leave open the question of bucket shops, although that is taken care of later on. They have no substantial meaning in the bill as it now stands.

Senator CAPPER. I think he probably overlooked the fact that there was that definition on the previous page.

Mr. WELLS. That definition had not been inserted at the time Mr. Morrill inserted this.

Senator CAPPER. Yes.

Mr. WELLS. The next amendment suggested and concurred in is on page 3, section 4, line 11, after the word "keep," strike out the remainder of the paragraph and in lieu thereof insert the following:

such memorandum for a period of three years from the date thereof, or for a longer period if the Secretary of Agriculture shall so direct, which record shall at all times be open to the inspection of any representative of the United States Department of Agriculture and United States Department of Justice.

That change was made because it was indefinite in the original bill whether they should be kept forever. This puts it up to the Secretary of Agriculture to say if he wants them kept more than three years. That is all there is to that, and the Secretary is perfectly agreeable.

Senator MCNARY. That is agreed to, then, by all parties?

Mr. WELLS. That is agreed to.

In section 5, on page 3, paragraph (a1), line 22, change the period after the word "grain" to a comma and add:

and having adequate storage facilities and recognized official weighing and inspection service.

I think it is quite obvious that a terminal market without storage facilities and without official weighing and inspection is an impossibility; so it was thought best to amplify the definition. Furthermore, grain could not be sold in sufficient volume and under such conditions as to fairly reflect the general value of grain, unless there are inspection and weighing facilities available. There is no objection to that part, and it was concurred in by the Secretary.

Paragraph (b) of section 5, beginning with line 23, was stricken out, for the reason that the duplication of work involved was not only extremely burdensome, but tremendously expensive, and must ultimately be reflected in the cost of marketing the producer's product. For that was substituted the section which we have here. Under paragraph (b), amend by striking out the entire paragraph and inserting in lieu thereof the following:

When the governing board thereof provides for the making and filing, by the board or any member thereof, as the governing board may elect, of reports in accordance with the rules and regulations, and in such manner and form as may be prescribed by the Secretary of Agriculture, and whenever in his opinion the public interest requires it, showing the details and terms of all transactions entered into by the board or the members thereof, either in cash transactions consummated at, on, or in a board of trade, or transactions for future delivery, and when such governing board provides for the keeping of a record by the members of the board of trade, showing the details and terms of all cash transactions entered into by them, consummated at, on, or in the board of trade, such record to be in permanent form, showing the parties to all such transactions, any assignments or transfers thereof, with the parties thereto, and the manner in which said transactions are fulfilled, discharged, or terminated. Such

record shall be required to be kept for a period of three years from the date thereof, or for a longer period if the Secretary of Agriculture shall so direct, and shall at all times be open to the inspection of any representative of the United States Department of Agriculture and the United States Department of Justice.

The Secretary felt certain that if one of the qualifications for a license required the exchange to compel members to keep a record of all of their cash transactions, that would be sufficient for his purpose, providing those records were available, and in addition requiring the furnishing of such reports as he, in the public interest, might require from time to time. That relieves the exchanges of a tremendous burden of clerical work which is entirely a duplication and must involve a tremendous expense.

Senator McNary. Was that amendment framed by the Secretary, Mr. Wells?

Mr. Wells. That was framed in connection with his attorney and our attorneys. It was approved by the Secretary.

Senator McNary. It was agreed to all around?

Mr. Wells. It was agreed to all around.

Paragraph (c), on page 4, line 12, has never been subject to contention.

I think the word "fake," in line 13, should be "false."

Senator Capper. Oh, yes; that was "false" in the bill that I introduced.

Mr. Wells. Yes.

In paragraph (d), section 5, line 17, page 4, the amendment proposed is: After the word "including," insert a comma and the following:

at such times as the Secretary of Agriculture may deem necessary.

In other words, there are times when limitations would have a very serious effect in crippling the operations of a market, but at other times, if the Secretary, through the investigation of records and the trading operations of an individual, should deem that manipulation was impending, then he could say to the governing board "place limits on your open lines of speculative trades." The Secretary is willing to assume that responsibility, and we concurred in that suggestion.

Senator McNary. Yesterday Mr. Gates gave testimony, and others who have represented the exchanges, against the inclusion and for the limitation of the words "including a reasonable limitation."

Mr. Wells. We are absolutely opposed to that part of the paragraph. We do not believe any requirement for limitation should be placed in it, but if there be a limitation we want the Secretary to say when it is to be imposed.

Senator McNary. So that was agreed to, was it?

Mr. Wells. That was agreed to. This last part of this paragraph seems entirely unnecessary. The words "When the governing board thereof provides for the prevention of manipulation of prices by the dealers or operators upon such board," include everything that follows. There is no object in placing the limitations, except to prevent manipulation. There may be other means provided which would more satisfactorily curb attempted manipulation, but this says it must be by limitation.

The Chairman. I would hardly give it that construction. I agree with you, if that were all stricken out, he would have the power to

do that, but the draftsman of the bill wanted to be sure that that would be included, and so he said it should be. It does not follow from that, though, that you could not have any other rules that would accomplish the same thing. Don't you think that is right?

Mr. WELLS. I think the provision for the prevention of manipulation includes a limitation or any other means which would effect the result.

The CHAIRMAN. That fact that it is in there does not affect something else, because it says it shall include that.

I want to ask you about the language itself. What do you think is necessary?

Mr. WELLS. "At such times as the Secretary of Agriculture may deem necessary."

The CHAIRMAN. Then it would read:

When the governing board thereof provides for the prevention of manipulation of prices by the dealers or operators upon such board, including at such times as the Secretary of Agriculture may deem necessary——

Mr. WELLS. Yes, sir.

The CHAIRMAN (continuing). "A reasonable limitation."

Mr. WELLS. Yes, sir.

Senator SMITH. Who is to be the judge of the reasonable limitation—the Secretary of Agriculture or the board?

Mr. WELLS. The Secretary of Agriculture could not be in a position to know what the limitation should be, the conditions and the volume of business in various markets, but it would have to be, I assume, satisfactory to him if it prevented manipulation. The gage of the propriety of the limit would be whether it prevented manipulation, and the Secretary of Agriculture would have the information available at all times as to the character of operations on the board.

We now come down to the much-debated paragraph (e). To me it is a very sad thing that that was ever introduced here. I am not a commission merchant, so it does not affect me, but it is inconceivable that a paragraph dealing with the character of membership on an exchange, an exchange which is operating under a charter granted by the State in which it is located—that the character of that membership should be determined by a revenue bill. I think, gentlemen, it is an unfortunate example to the business world of what may be accomplished by a subterfuge. I am a believer in the cooperative movement and its ultimate success, but I do not believe it is helped by assisting it on its way through subterfuge. I think the cooperative societies should come in on the same basis as any other member. Personally I would like to see the cooperative societies represented on the directorate of every exchange, and special privileges are not necessary, as is evidenced by the fact that the two biggest cooperative grain associations in the world, that is, the Saskatchewan Cooperative Elevator Co. and the Grain Growers Grain Co. of Canada, are members not only of the Winnipeg Grain Exchange, but of numerous exchanges in this country and on identically the same terms and under the same conditions as all other members, and they have built up a tremendous and very profitable business.

Senator SMITH. Your contention, then, is that if they come in they should come in under the rules and regulations that you come in under?

Mr. WELLS. Exactly, sir.

Now, it was pointed out to you yesterday by Congressman Young that they wanted to come in as cooperative associations, but that they did more business for patrons not members of the association than they did for their own members. Consequently, it is introducing unfair competition. In other words, they go to a man and practically say to him, "I will split commissions with you if you ship your grain to me." It is breaking down the morale of the grain exchanges.

Senator Norris, I think it was, made the remark the other day that the commission merchant on a grain exchange was merely the agent; nothing concerned him; he sold the grain for the farmers' elevator company, we will say, and he rendered them an account of sales and charged them a commission, that that was all there was to it. Well, that is not all there is to it—not by a long way.

All through the country—and I speak now with authority on the Northwestern situation—there is a large amount of grain moving to the terminal markets which is encumbered by thrasher's liens, chattel mortgages, and other forms of liens, That grain is offered on the exchange for sale. Millers and terminal elevator companies buy that grain. The commission merchants who sell to them that grain are responsible if there is a lien of any sort on that grain. In other words, the buyer does not have to look into the title of the grain to be sure that it is free from encumbrances. The commission merchant stands between the shipper and the buyer.

Now, if you eliminate the financial responsibility of the commission merchant, the buyer, in making his purchase, must figure in the price he offers a reasonable protection against any encumbrances which may be standing against that grain. The sale of stored wheat by the farmers' elevators, the sale of wheat encumbered by thrasher's liens and chattel mortgages, as I said, is a matter of daily occurrence. The buyer is protected because he is dealing with a financially responsible commission merchant. Furthermore, the commission merchant has to give a bond to protect the people who ship to him. So that it is almost unknown for a producer to lose any money by shipping to a commission merchant on an established exchange.

Senator SMITH. If this were adopted as amended, the cooperative institution would have to give that bond the same as any other commission house.

Mr. WELLS. Yes, sir; they would.

Senator SMITH. That would be protection, would it not?

Mr. WELLS. Yes; to that extent.

If you determine, under subterfuge, to introduce this matter into this bill, then it should be with a very clear definition of the basis upon which this commission rebating is to be permitted. Our amendment makes the paragraph read this way:

When the governing board thereof admits to membership therein and all privileges thereon on such boards of trade—

and then insert:

under the same terms and conditions as other applicants, any duly authorized executive officer of any lawfully formed and conducted cooperative association of producers having adequate financial responsibility.

Then, strike out the proviso in the present bill and substitute this proviso:

Provided, That no rule of a contract market against rebating commissions shall apply to the distribution to its bona fide members of patronage profits by any such cooperative association, substantially all of whose business consists of handling grain produced by its members.

Now, if they are truly cooperative associations of producers, they can have no objection to that amendment. If however, the word "cooperative" is camouflage, and as Congressman Young suggested yesterday, they go out and solicit business, and are doing more business for patrons than for the members of the association, then, of course, this will not satisfy them; but I can not conceive that you wish to force such an injustice upon any organization in the country.

The CHAIRMAN. Well, this amendment like the others, was suggested by the Secretary of Agriculture?

Mr. WELLS. This is concurred in by the Secretary of Agriculture. He said what he wanted.

The CHAIRMAN. And this is——

Mr. WELLS. We protest. We are not accepting this gracefully. We are protesting.

Now, passing that by—and I hope I have not displayed too much feeling, and if I have, you will pardon me; we had to introduce, because of a subsequent change, a new paragraph, paragraph (f), which is a cross reference to a new paragraph introduced in section 6.

Senator SMITH. Let me get this clear before we pass from it. This provides that the cooperative associations coming into an exchange will come in as a unit, composed of its members, and therefore will be subject to all the rules and regulations that any member will be?

Mr. WELLS. It will have a representative, a duly authorized executive officer, who is a member.

Senator SMITH. I understand that.

Mr. WELLS. Yes, sir.

Senator SMITH. He represents himself the bona fide members of that association?

Mr. WELLS. Yes, sir.

Senator SMITH. He is not permitted to solicit patrons or business, but he can come in and enjoy the benefits of a member?

Mr. WELLS. He can not distribute earnings or part of the commissions to patrons, but only to bona fide members. The association must be one of producers.

Senator SMITH. That just makes your cooperative association, in effect, one person?

Mr. WELLS. Yes.

Senator SMITH. That is what it means because the profits that accrue will go to that association as a unit member of that organization?

Mr. WELLS. Yes, sir; and be distributed among their members as they see fit.

Senator SMITH. Yes.

Mr. WELLS. The new paragraph (f) is simply a cross reference to the new paragraph introduced in section 6.

In section 6 the principal change made is that commencing with line 14, substitute for "the Secretary of Agriculture," "a commission composed of the Secretary of Agriculture, Secretary of Commerce, and the Attorney General."

The personnel of that commission is logical, we think. The Secretary of Agriculture is obvious. The Secretary of Commerce is interested in the distribution of all products in this country, and the distribution of the grain has an intimate connection with the distribution of all forms of merchandise. The Attorney General would come in inevitably as the representative of the Department of Justice.

We do not feel that it is right to delegate to any individual the power to suspend or revoke the designation of any board of trade as a contract market. The greatest damage that would accrue is not to the members of that market. The greatest damage that would accrue is to the public and, most of all, to the producer. You are destroying a facility, a facility which makes possible the marketing for cash of any and all grain at any time in the year. Therefore, it is our contention that instead of an individual there should be a commission, and I would say that the Secretary expressed himself as being not at all opposed to sharing the responsibility with some of his fellow Cabinet officers.

Then, again, we contend it is manifestly unfair to hold the board of trade responsible for anything more than the exercise of reasonable diligence in the enforcement of its rules and regulations. The purpose of this bill is to prevent manipulation, and the enforcement of rules and regulations is placed upon the governing bodies of these organizations, but, without their knowledge, it is entirely possible that a member of the organization might break some of the rules and regulations which are laid down as requirements for the designation of the market as a contract market.

For that reason, in line 19, after the word "not" is inserted "using reasonable diligence in," and then it goes on "enforcing its rules of government made a condition of its designation as set forth in section 5."

The changes that follow are the substitution of "said commission" for the "Secretary of Agriculture," until you get down to page 6, line 10, and that provides for a copy of the petition to be delivered to the Secretary of Agriculture, where there are inserted the words "as chairman of said commission or any member thereof."

Senator SMITH. What was the attitude of the Secretary of Agriculture with reference to the proposed amendment of line 19, "using reasonable diligence in?"

Mr. WELLS. I beg your pardon, Senator.

Senator SMITH. In line 19, page 5, the one that you have just been discussing, where the board shall not be held responsible other than for using reasonable diligence in enforcing the rules?

Mr. WELLS. The Secretary acquiesced in that and, furthermore, we believe that the bill is greatly strengthened by the addition which we make to section 6 in paragraph (b). This becomes paragraph (a) of section 6, and the changes throughout, as I have said, are largely the substitution of the words "said commission" for "Secretary of Agriculture," and in line 22, as it would logically follow, the wording should be, "may direct it to modify its order."

Now, if the manipulator is to be driven from the markets, as we all wish him to be, if he exists and when he exists, there is no better way of doing it than to make him directly subject to the Federal law. The moral effect of direct action against the offender rather

than against the exchange will, in our judgment, be the greatest possible deterrent to any attempted manipulation.

Paragraph (b) of section 6, which we have introduced, provides for the direct action against the manipulator or one who is attempting to manipulate.

Senator McNary. This is an entirely new provision?

Mr. Wells. This is a new provision and, in our judgment, strengthens the bill very much, because it provides for direct action against the guilty party.

(b) That if the Secretary of Agriculture has reason to believe that any person is violating any of the provisions of this act or is attempting to manipulate the market price of any grain in violation of the provisions of section 5 hereof, or of any of the rules or regulations made pursuant to its requirements, he may serve upon such person a complaint stating his charge in that respect. to which complaint shall be attached or contained therein, a notice of hearing specifying a day and place not less than three days after the service thereof, requiring such person to show cause why an order should not be made directing that all contract markets until further order of the said commission refuse all trading privileges thereon to such person. Said hearing may be held in Washington, D. C., and if so held, shall be before the said commission composed of the Secretary of Agriculture, the Secretary of Commerce. and the Attorney General.

If such hearing be held elsewhere, it may be before a referee designated by the Secretary of Agriculture who shall cause all evidence to be reduced to writing, and forthwith transmit the same to the Secretary of Agriculture as chairman of the said commission. Any member of the said commission or said referee shall have authority to administer oaths to witnesses. Upon the evidence received the said commission may require all contract markets to refuse such person all trading privileges thereon for such period as may be specified in said order. Notice of such order shall be sent forthwith to the offending person and to the governing board of said contract markets. After the issuance of the order by the commission, as aforesaid, the person against whom it is issued may obtain a review of such order or such other equitable relief as to the court may seem just, by filing in the Court of Appeals of the District of Columbia a written petition praying that the order of the commission be set aside. A copy of such petition shall be forthwith served upon the commission by delivering such copy to its chairman or to any member thereof, and thereupon the commission shall forthwith certify and file in the court a transcript of the record theretofore made, including evidence received. Upon the filing of the transcript the court shall have jurisdiction to affirm, to set aside, or modify the order of the commission, and the findings of the commission as to the facts, if supported by the weight of evidence, shall in like manner be conclusive.

"In like manner," referring to paragraph (a).

The jurisdiction of the Court of Appeals of the District of Columbia to enforce, set aside, or modify an order of the commission shall be exclusive. In proceeding under paragraphs (a) and (b) the judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 240 of the Judicial Code.

The Chairman. Now, where is paragraph (a) that is referred to there?

Mr. Wells. Paragraph (a) begins on line 14.

The Chairman. What page?

Mr. Wells. Page 5.

The Chairman. It is not marked that way in the bill.

Mr. Wells. No; it has not been marked in the bill. It should be.

The Chairman. I do not understand why it is necessary, assuming that we wanted to have this amendment in, to mark it as a separate paragraph (b). Why not let it go in with that section?

Mr. Wells. Well, there are two different provisions.

The Chairman. Yes; that is true, but that often happens.

Mr. WELLS. Of course, I am not pretending to suggest the form of the bill. This is merely a suggestion.

The CHAIRMAN. Yes.

Senator SMITH. It would seem to be convenient just to insert paragraph (a) in the first paragraph.

Mr. WELLS. Yes.

Senator SMITH. That would make it better understood.

Senator MCNARY. Was this procedure agreed to by the Secretary of Agriculture?

Mr. WELLS. This procedure was agreed to by his solicitor.

Senator MCNARY. Of the Department of Agriculture?

Mr. WELLS. Yes, sir.

Senator MCNARY. It was agreed to all around?

Mr. WELLS. Yes, sir. Following section 6, we requested that another section be inserted, which would give an exchange the right to request the withdrawal of its designation as a contract market. In other words, if it was found impossible to operate under the rules and regulations imposed by the Secretary of Agriculture, we do not want to be placed in the position of having to refuse. We wish to have the privilege of withdrawing, and the paragraph resulted from conference, and was acquiesced in by the Secretary and his solicitor. It simply provides that upon due notice, of 90 days, a market can have its designation withdrawn, and the Secretary shall thereupon notify all other contract markets that its designation has been withdrawn.

We then come to section 8, part of which is objectionable, and part of which we are entirely agreed upon. A compromise suggestion is made on page 7, line 17, by striking out the words "and such parts of reports made to him under this act." The object of that is this: The reports to which reference is made would, in all probability, include the names of individuals and their positions in the market. Now, it does not make any difference whether you are a speculator or a hedger; confidential reports should not be made public. It would be just as much a disadvantage to me if my market position were reported in that way, for instance, if I had my wheat hedged in Chicago May, as it would be if I were a speculator. It would encourage manipulation, because it would show the would be manipulator just where hedges were placed, and he could endeavor to squeeze the hedger if the hedger had his hedges in a market where he could not make speedy delivery. There was no objection on the part of the Secretary of Agriculture to the elimination of the words quoted with the qualifications included in the amendment.

After the word "investigation" strike out "and such parts of reports made to him under this act."

Also on line 19, after the word "public," change the period to a comma and add "except data and information which would separately disclose the business transactions of any person and trade secrets or names of customers."

That verbiage I think was taken right bodily out of the interstate commerce act, and it is also in the Frelinghuysen Coal Regulation Act.

There is added, in addition, a proviso:

Provided, That nothing in this section shall be construed to prohibit the Secretary of Agriculture from making or issuing such reports as he may deem necessary, relative to the conduct of any board of trade or of the transactions of any person found guilty

of violating the provisions of this act under the proceedings prescribed in section 6 of this act: *Provided further*, That the Secretary of Agriculture in any report may include the facts as to any actual transaction on any board of trade without divulging the names of the persons therewith connected.

That last proviso was at the suggestion of Secretary Wallace or his solicitor. He thought the Secretary might, in reporting to you, wish to cite an actual transaction not using names, but just as an example.

The publicity feature as regards those who have been guilty of violations under section 6 meets with our hearty approval, and, again, we think that the publicity which would fall upon a manipulator would be the greatest deterrent possible to manipulation.

Senator McNary. You agree to that section 8 as amended?

Mr. Wells. We agree to section 8; yes, sir.

Senator McNary. Does the Secretary of Agriculture agree to it?

Mr. Wells. The Secretary has agreed to it.

There is one additional amendment on page 8, section 11, line 12, where there is a substitution of the words "four months" for "sixty days."

The Secretary of Agriculture said that, as far as the department was concerned, they would have to request an extension of time, that they could not prepare their rules and regulations and decide on their plan of administration in a shorter time. On the other hand, the exchanges could not pass their necessary rules, or modify their rules so as to be designated within the time stipulated in the bill.

Now, gentlemen, I want to impress upon you once more that the bill as amended does not meet with the approval of the grain trade, the bill with these suggested amendments. We do not think that we should be subjected to any such control. Personally, I think the only thing that should be done, in justice, would be to provide for Federal incorporation, and then, if we violated the terms of our charters, the Department of Justice would step in and, if proven guilty, we would forfeit our charters. I do not believe it is safe to introduce governmental interference with the internal operations of any business. You may say, "Well, it is done with the banks." That is entirely different. The customers of the banks have to use the banks as a facility in transacting business. The regulations are minor. They do not hamper the banks in any way. They are not subject to frequent change. With us, the business of the futures market depends upon the presence of a class of traders who will only operate as long as they feel that they may exercise their own judgment in the way that they see fit, and as long as they feel that their contracts will not be terminated at a time when, in their judgment, it is prejudicial to their interests to have them terminated. We are not like the packers, whose operations are conducted by employees. You can impede their physical operations but you can not drive the packers' business away. People have to eat meat. The future markets are dependent upon a class of people who trade of their own volition. You can not make them trade, and when they are gone, the market is gone.

Senator Kendrick. But is it not true in the ordinary rules of business that we are not afraid of the application of any law around us so long as we comply with the law? A man understands pretty well when he is doing business and if he is playing the game

square, that he has nothing more to fear under this than he would have under the present system. Do you not think so?

Mr. WELLS. Yes; I think so. I think he has a great deal more to fear under this. I am speaking now of the bill as it stands, without amendment. The bill as amended limits the danger of the internal operations of the exchanges being interferred with, and still it preserves to the Secretary of Agriculture a degree of control which, in our judgment, is absolutely unwarranted.

I quite agree with your expression the other day, Senator, that we would gain a certain prestige or gain a certain public confidence if we were directly responsible to some governmental agency.

Senator KENDRICK. That is just the thing. The people who are distrustful of the methods would not be so if it were under the control of somebody in whom the public had confidence.

Mr. WELLS. I quite agree with you.

Senator KENDRICK. The reason that the prople have confidence in the Secretary of Agriculture or in other men in high authority is due to the fact that they would have no interest whatsoever except to see fair play. Therefore, they believe him when he discloses the fact that there is nothing wrong with the situation, just the same as they will believe him when he says there is something wrong.

Mr. WELLS. I agree with you perfectly on that point.

Senator KENDRICK. And you are certain to reap a benefit which you do not now anticipate.

Mr. WELLS. But a degree of control that contemplates practically the form of regulations governing the internal operations of the exchange is exceedingly dangerous, in my judgment, because you must remember that the Secretary of Agriculture will be the storm center on every radical element in the country.

Senator KENDRICK. Well, we want to fix a bill so that the Secretary, even if he were inclined to act arbitrarily, would not have authority to upset the whole situation.

Senator GOODING. If the Secretary of Agriculture were fair and strong enough to play his part in connection with the administration of this bill, would there be any serious objection to it, under those conditions, as amended?

Mr. WELLS. I believe that the bill as amended represents the extreme limit in control under which it is possible to preserve, with any degree of assurance, the integrity of the grain marketing system of this country. I do believe that under the bill as amended we can function, and I think we would cooperate in every way to make it a success; but to go further and introduce more drastic features, I doubt very much whether it would be anything but a case of strangulation—a slow death.

Senator GOODING. A radical change in any business, until the machinery and the methods were built up to take care of it, might be dangerous. I agree with you on that.

Mr. WELLS. I do not know whether you are familiar with it, Senator, but it is rather interesting as being connected with this legislation to make a comparison between what is suggested by Congress and what is suggested by the people who are vitally interested in this farmers' cooperative movement.

The committee of seventeen put out a synopsis of their plan to the producers of this country. They also, in order to elucidate that

plan asked certain questions which might naturally be asked, and they answered those questions.

This question was asked——

Senator GOODING. Well, I do not think you need bother to go into that. Unfortunately, I had to attend meetings of another important committee, and I shall have to read the hearings, of course, in order to be familiar with them.

Mr. WELLS. Have you gentlemen any questions to ask regarding the bill or the amendments?

Senator MCNARY. I want you to make a further statement about that, Mr. Wells. I would like to have you clear that matter up if you can.

Senator KENDRICK. That ought to go into the record.

Senator MCNARY. I think you had better put that in the record.

Mr. WELLS. The question was asked:

How will the new plan eliminate speculation in grain if the sales association operates on the present grain exchanges?

The answer was:

One great advantage of the committee's plan is that it can be put in operation almost at once, without waiting to get any large percentage of the grain of the country under contract. The easiest way to start will be to go into the present grain exchanges where cash buyers are in the habit of coming, and meet them there. The farmers' sales association will at first have no particular influence over the rules and conduct of these markets. If farmers back their organization, however, it will not be long before the farmers' association will handle a large enough volume of grain to become a dominating factor on the market.

The farmers' association will sell only to cash buyers. It will not speculate, and will not sell grain to speculators. As soon as a large enough volume of grain is going through the farmers' association, the hazards of purely speculative trading will be so greatly increased that there will be no joy in it any more. It is quite likely that in time the grain exchanges will become cash markets only, with most of the grain handled by the farmers' association and with speculative trade eliminated entirely.

In other words, the farmers' association proposes by gradual elimination to do away with speculation. Congress proposes to try to regulate it by law. That is the difference. I merely cite this as being rather illuminating as to the relative positions of these two bodies.

Senator KENDRICK. Yes; but don't you believe it possible that the enactment of this legislation will bring to the farmer an entirely different viewpoint, so that he will become a part of this market himself, and understanding it better he will go along with the movement as you have?

Mr. WELLS. I contend that that should be the case.

Senator KENDRICK. Now, then, what is wrong——

Senator GOODING. You would make him an interested party?

Mr. WELLS. That is exactly what should be done. I consider the cooperative movement is properly a part of the grain trade of this country.

Senator GOODING. There is no doubt about that.

Senator MCNARY. Mr. Wells, I was interested yesterday in a statement made by the representative of the Department of Agriculture concerning the great fluctuations in the price of wheat in May this year, which he attributed to a corner, and not to world economic conditions. Have you any thought on that subject?

Mr. WELLS. I have a thought. I would not want to be as bold in my statements as the witness of yesterday, because I think none of us outside of the markets—and I have not been in touch with the markets for some time—can guess what goes on; but it is rather illuminating to find, in the first place, that at the conclusion of the so-called corner—and I question whether it was a corner; I think it was a congested condition of the market—there was only 195,000 bushels of wheat that was settled. That is, where the seller could not make delivery, and went to the buyer and settled. That is all that was involved, whereas there was 1,025,000 bushels of wheat taken during the month of May on delivery on May contracts by exporters.

In other words, it is perfectly possible, in my mind, that exporters having made sales for deferred shipment, purchased Chicago May wheat; that speculators and others who were not in a position to make delivery had anticipated that something would happen which would enable them to cover their contracts to better advantage. The expected something that did not happen, and they sold short contracts they could not fill. Their endeavors to cover those contracts would account entirely for the skyrocket effect on the market. I think it is one of those abnormal conditions that might occur in any line of business. Early in May there were less than 5,000 bushels of contract wheat in the public warehouses in Chicago available for delivery and export. As I say, exporters actually took over 1,000,000 bushels during the month, which were shipped out for export.

The witness yesterday commented on the fact that there was a bear market running up to the middle of April and then commenced this bull market. He was asked whether there were any natural causes for the action of the market both during the period of decline and during the period of enhancement of values, and he said, as I recollect it, he did not remember any particular causes.

There was a very decided cause for weakness in the wheat market at a period during the early spring. In December, I think it was, the Department of Agriculture, as a result of checking up its estimates, with the figures obtained from the Census Bureau added overnight 40,000,000 bushels of wheat to the available supply in this country.

The CHAIRMAN. At what time in December?

Mr. WELLS. I think that was late in December, Senator. I remember it was just before the hearings we had in January.

The CHAIRMAN. Now, any effect that that would have on the market would be dissipated before March, would it not.

Mr. WELLS. No; I think not. If all the calculations of all traders were based upon 40,000,000 less available for export, they would all lose confidence in values, particularly at a period when no one had much confidence in the value of any commodity.

On the other hand, during the period of advance, reports were issued by the State departments, I think in the Southwest, indicating a very rapid deterioration in the winter wheat crop. You will remember at that period we had very dry weather, with no rains, but with frost and cold weather. Both in Kansas and Oklahoma they reported a very severe deterioration in their crops, which led to a decrease in the anticipated supply of wheat. I am not saying that

this produced the maximum effect either way, but I do say that they were very great factors in the market.

The CHAIRMAN. The decline commenced in March and ran down to April some time?

Mr. WELLS. Yes.

The CHAIRMAN. And then it commenced to go up. Those were the two movements that the witness yesterday was talking about?

Mr. WELLS. Yes.

The CHAIRMAN. We will take a recess at this point until 1 o'clock.

(Whereupon, at 12.10 o'clock p. m., a recess was taken until 1 o'clock p. m.)

AFTER RECESS.

The committee reconvened at 1 o'clock p. m.

Senator McNARY. The chairman is occupied on the Senate floor at this time and he has asked me to call the meeting to order and go forward with the hearing.

I will ask that the brief submitted by Mr. Wells this morning be inserted in the record.

STATEMENT OF MR. F. B. WELLS, VICE PRESIDENT F. H. PEAVEY & CO., MINNEAPOLIS, MINN.—Resumed.

Senator McNARY. Mr. Wells, I want to ask you one question before you go into the general discussion of the proposed legislation, particularly that part which pertains to rebuttal.

Did you or did you not at one time during the consideration of the Tincher bill, which we have before us now, submit certain amendments to the House committee?

Mr. WELLS. Yes, sir. The bill under discussion before the House committee was H. R. 2363. At the close of the hearings I asked the chairman of the committee for permission to submit in memorandum form suggestions which had been offered by members of the grain trade for amendments which, in our judgment, if adopted, would make the bill workable and not burdensome and might possibly permit of the satisfactory functioning of the markets. Those amendments were submitted in a letter to the chairman of the House Agricultural Committee under date of May 29.

I would say that practically all of the amendments had substantially been agreed upon during the course of the hearing, and upon leaving the House Office Building on that day I asked the gentleman who had introduced the bill whether the amendments in general were satisfactory, and he replied that there need be no worry on that score, that the bill would be substantially as it had been agreed upon during the course of the hearings.

The bill, as it came out in the form of H. R. 5676, differed very radically from any bill which had been seriously discussed during the hearings. It provides for several features under the requirements for designation as a market which were never considered in connection with the original bill, or, if considered, had been disregarded.

It had been pointed out by the grain trade that the provision in section 5 of H. R. 2363, paragraph (b), which relates to records was burdensome and would involve a tremendous expenditure; that it

was unnecessary and would simply tend to increase the cost to the producer of marketing his product.

There was in this same section 5 a paragraph relating to private wires, and we suggested, inasmuch as it was rather a complicated problem and one which could best be handled by the exchanges interested, that action be deferred until such time as the Secretary had an opportunity to investigate, and that this paragraph be eliminated from the bill. That was done.

Paragraph (e) of section 5, appearing in H. R. 5676, was not included in the proposed bill, was not in the original H. R. 2363, and had never been considered in connection with the discussion of H. R. 2363.

Likewise, in paragraph (d) of section 5, it had been tacitly agreed that the question of limits should not be incorporated. The consensus of opinion among the committee was that it was impossible to fix a limit to operate at all times in all markets satisfactorily, and that inasmuch as it must be flexible and was at times entirely unnecessary, it was well to eliminate the specific mention of limitations of speculative lines from the bill, because it was the belief that rules for the prevention of manipulation of prices would in themselves include a provision for limitation, if limitation seemed to be the best means of prevention of manipulation, and that was the object of the bill.

The publicity feature appearing in H. R. 5676, in section 8, was not in the bill H. R. 2363, and it was generally agreed by members of the House committee that it would be exceedingly dangerous to publish details of an individual's transactions, unless they were malefactors and deserved such treatment.

The procedure in section 6 for the disciplining of a board of trade which had violated the provisions under which it was designated as a contract market was discussed fully, and at the request of the sponsor of the bill an amendment was handed to him personally which covered this point and provided for action against either the board of trade or the individual member.

It also provided that the burden of proof would lie with the Secretary of Agriculture, whereas the bill as reported places the burden of proof entirely upon the grain exchange, the grain exchange being considered guilty of an offense until it demonstrates the fact that it is innocent.

I think that the vital points on which the bill as reported by the committee differed from the bill which had been substantially agreed to are covered in the statement which I have made.

The bill as introduced on the floor of the House, that is, H. R. 5676, was introduced on the floor of the House with a report stating that it had received the approval of the grain trade. There is not a member of the grain trade who ever saw the bill as reported out by the committee or knew about the bill until within a day of the time the House took it up for action. Naturally, we felt aggrieved and wired to our Representatives that there was a general misapprehension as to our position relative to the bill. Consequently, our real position was not even recorded by the votes of those Representatives coming from the districts wherein the markets are located, except in a few instances.

It was stated in the debate on the floor of the House on the 12th of May, on page 1349 of the Congressional Record, when reference was

made to the telegrams of protest which were received by the gentlemen who sponsored the bill. [Reading:]

There is a pocketfull of them here. There is no distinction between them. We all have them, and we have telegrams that I am told are forgeries, because men who appeared here personally themselves and analyzed this bill and talked to us and indorsed the bill are among the apparent signers of these telegrams protesting against the enactment of the bill. A gentleman near me tells me he has a telegram, a stereotyped telegram, stating that the bill would destroy the trade, signed by Mr. Griffin, who approved the bill when he appeared before the committee, but said that there was an element in the trade that would object to this measure.

I am frank to say that I do not believe the gentlemen on this committee appreciate the difference between the bill as reported out by the committee and the bill which was substantially agreed to before the close of the hearings.

There are just one or two points, gentlemen, in the general discussion before I come to the analysis of testimony.

One is deliveries on contracts. It has been stated repeatedly by those disapproving of the present market system, or certain features, and it is stated again in the brief which I have before me by Mr. Clifford Thorne, that there is a very, very small fraction of the future contracts filled by actual deliveries.

We will concede that there is a small fraction of those contracts fulfilled by actual technical delivery of the property, but the percentage filled, not technically, but by a transfer of grain in exchange for futures, is very, very large. I just want to call your attention to condition that exists in my own business. I have terminal elevators in Duluth. During the fall of the year, after the close of navigation, I purchase a large amount of wheat, and store in those elevators sometimes as much as five or six million bushels or more. That wheat is hedged in Chicago ordinarily, if the relative difference between the various markets is normal. It is hedged there for the reason that it is ultimately sold to eastern mills of exporters who, against their sales of flour on the one hand, or their sales of wheat for deferred shipment on the other, purchase the Chicago futures.

When I sell my cash wheat at the opening of navigation, the miller or the exporter gives me in exchange, we will say, the Chicago May futures, so that while no delivery is made on that contract technically, that is, through a public warehouse by the tender of a regular warehouse receipt, an actual delivery is made by that transfer, in the exchange of the cash grain for the future. In that way hundreds of millions of bushels of grain are, to all intents and purposes, delivered on the future contracts, while there is no technical delivery through a regular warehouse as is contemplated when the contract is entered into. That practice exists everywhere. It is more general, probably, in connection with the Chicago market than it is in connection with the Minneapolis market, for the simple reason that the great volume of corn and oats and wheat hedged in Chicago follows the natural lines of transportation from the producer to the consumer or to the seaboard, from which the grain is exported. It would be an economic waste if it should go through Chicago. Chicago, in that instance, is the underwriting center. It is like Lloyds in London. It is a center where the insurers gather and underwrite the risks, but because that grain fails to enter into Chicago to be put in a regular warehouse

and be delivered through the tendering of a warehouse receipt does not mean that, to all intents and purposes, a delivery is not made.

Consequently, you must bear in mind that when these criticisms are made as to the relatively small, the minutely small proportion of grain delivered on future contracts, that a man making the statement overlooks the fact that a very, very large percentage of deliveries are, to all intents, made through the exchange of cash grain for future contracts.

There is one more point upon which I would like to dwell before closing the general discussion, and that is the relation of the volume of future trading to actual receipts in the markets. I have covered that in part through my statement relative to the deliveries on contracts, but the basis of comparison between the volume of future trading and cash grain is not between the volume of future trading and the grain actually coming into the market, but between the volume of future trading and the grain which is in the territory tributary to that market.

For instance, to cite a very simple case, generally speaking you might describe the territory tributary to Minneapolis as consisting of Minnesota, North Dakota, South Dakota, and Montana. We do get some grain from Idaho and we do get some from farther west. The average crop of wheat for five years in those States has been 171,500,000 bushels. The average crop of oats for that period has been 245,500,000 bushels—a total average crop of wheat and oats of 417,000,000.

Now, that is the volume which should be compared with the futures traded in on the exchanges in Minneapolis and Duluth. Substantially all of that grain can go to either market and at the same rate.

Take the figures from the Federal Trade Report, volume 5, pages 37 to 39, and we find that the volume of futures in Minneapolis for a corresponding period averaged 972,000,000 a year, and for the period during which Duluth reported, 357,000,000 a year, the total being 1,329,000,000 of futures sold in the two markets yearly.

Now, comparing this total volume of future trading with the total grain available for hedging in the States mentioned, you reach a relation which is not at all out of reason. It is approximately three to one.

I am not contending that all of that grain is hedged, or that all of it is commercially available for shipment, but the relation is still there between the crop available in the territory tributary to the market and the volume of trading in that market.

The question has been asked repeatedly by various members of the committee if hedging is necessary for the economic handling of grain, why not for other merchandise, and I would like to call your attention to one point which I think will answer that question conclusively. The supply of merchandise is regulated to correspond with the demand. The manufacturer does not go on producing, we will say, summer cotton goods beyond the anticipated requirements of the jobbers who purchase from him. If the demand ceases to materialize to the extent he anticipated the manufacturer at all times can reduce the supply to correspond to the demand. Consequently, you can hardly compare the merchandising of a commodity, the supply of which can be controlled largely so as to conform to the

demand, with grain, which is produced in surplus quantities in this country, irrespective of demand.

We have been advised by witnesses on the stand that the consumptive demand for wheat, for instance, in the United States has fallen this year from fifty to a hundred million below the normal demand. It is impossible to regulate the supply normally available for this consumptive demand to conform to that reduction. Consequently, there is a risk inherent in carrying grain which does not exist in other merchandise.

There has been a great deal of comment, and it is perfectly natural, on the fluctuations in the market since future trading was resumed in July last.

In the first place I want to make the statement that it would be extremely unfortunate if this committee attempts to judge the merits of the future markets by the action of those markets during the period since their opening. The situation has been entirely abnormal. There have been factors at work which have never existed before. Violent fluctuations in foreign exchange have been equivalent to a change in value of several cents per bushel per day, repeatedly. At the start of the trade there was no wheat in commercial channels. It is a necessity for future trading that there should be during the period of heavy trade, at least, a visible supply of some material size which acts as an equalizer or balance wheel, as it were. There has been at no time during the year an adequate supply of grain in commercial channels. The visible supply has appeared. It reached a considerable volume, but it was not the visible supply in the ordinary sense of the word. For instance, that wheat which was in sight had already been sold and was merely in transit from the point of origin to the seaboard or to the consuming mill. There has been no stock of wheat upon which to trade.

Take the situation of corn and oats since supplies became available for storage, and you will find that the relation, for instance, of cash corn and oats to the futures has assumed practically a normal basis.

The situation of wheat has been entirely different, but it is interesting to note that a year ago last February there was introduced in the Senate a bill known as Senate bill 3844, designated "A bill to provide for the discontinuance of the purchase and sale of grain, and for other purposes." It is the bill which was introduced by Senator Gronna, then chairman of the Committee on Agriculture and Forestry, and was the result of violent fluctuations in cash grain at a time when no wheat futures markets were in operation.

Senator Gronna contended that the Grain Corporation should be compelled to wind up its affairs and that normal marketing conditions should obtain.

The fluctuations were violent. They were the result of conditions similar to those which have existed since the opening of the futures market; that is, a lack of breadth in the market. When cash grain was offered in quantity, and there chanced to be no buyers immediately available, the market declined very abruptly. On the other hand, if the millers sold flour for deferred shipment and went in to buy the cash grain and there were no offers they bid the price up until they found someone who could offer them grain, or put the price to a point which enabled the shipment of grain from a section

of the country which normally could not afford to market its product in the desired location.

I would submit as part of the record a chart which was prepared at that time by the Bureau of Markets at the request of Senator Gronna, and was introduced by him at the hearings I have mentioned for the purpose of demonstrating the unsatisfactory conditions and violent fluctuations in cash grain during the period of Government control.

The chart speaks for itself. The daily fluctuations do not show. The prices are the prices of a monthly average, and during the period of 1917, when there was a fixed price, there is obviously no price change shown.

Touching upon the testimony of witnesses who appeared, presumably in defense of H. R. 5676 as it stands, I would like to bring out just one or two points.

In the first place, I would like to clarify a statement in the testimony of Mr. Moore, of Duluth, who related the details of the sale of 4,500,000 bushels of wheat, which was made by one of my companies to Mr. Moore's firm.

A question was asked by Senator Capper whether a transaction of that magnitude did not influence the markets. As a matter of fact there was no effect upon the market for this reason. Mr. Moore is a shipper and exporter. He had accumulated 4,500,000 bushels, we will say, of Duluth December wheat. He had accumulated that wheat gradually, and as he purchased the wheat in Duluth he undoubtedly sold a like amount in Chicago, his intention being to take delivery of the wheat, ship it down the lakes and merchandise it either for export or to mills in this country during the winter months when supplies were not available.

Our concern, on the other hand, had, during the fall of the year, accumulated 4,500,000 bushels of cash wheat and had sold Duluth December as an insurance against price decline. When the sale was made to Mr. Moore of this cash wheat Mr. Moore simply transferred to us 4,500,000 wheat Duluth, December wheat, which he had purchased, and this liquidated our sales of a corresponding amount of Duluth December wheat, so that there was no effect on the market whatsoever. In fact, the transaction never went through the pit at all. It was simply a bookkeeping transaction and reported to clearing house and evened the whole deal up.

Mr. Tator, the statistician, and, I believe, economists for the Farm Bureau Federation, made a request of this committee that they investigate very closely the question of the margin secured by grain dealers on the grain which they handled. Figures may not lie, but they are certainly susceptible to peculiar interpretations.

Mr. Tator, you may remember, cited the case of a terminal elevator operator who, during a period of five years, made a profit of $3,000,000 and stated that had that man not hedged he would have made $6,000,000; therefore, hedging was a bad thing.

He also said that that situation demonstrated the fact that the apparent margin which was quoted by the dealers was not the actual margin.

If Mr. Tator is correct in his statement, he presupposes second sight on the part of the grain dealer. The grain dealer, according to Mr. Tator's own statement, bought his grain and hedged. When

he hedged, he insured his margin, and he also prevented himself from securing any additional profit through an advance in the market. Consequently, to realize Mr. Tator's claim, you would have to assume that the dealer would know that the market was going to advance to a point which would net him $6,000,000 profit, instead of $3,000,000, and that he would pay the producer on that anticipated value, which might or might not be realized.

I simply want to emphasize the fact that the actual margin is determined when the cash grain is purchased by an elevator operator, and a hedge is sold. He can make no more; he can make no less.

Mr. Morrill, appearing for the Bureau of Markets, Department of Agriculture, referred to Mr. Hoover's attitude as regards the advisability of placing limits upon open speculative lines. I think, in that connection, it would be of interest to glance over Mr. Hoover's testimony, offered at the January hearing before the House Committee on Agriculture, which appears on pages 918–919 of the record.

Mr. Hoover's contention was that you could not fix an arbitrary limit, that while during the heavy movement of the crop and when there was a large supply of grain in store, a million or two million, or even a five million limit might not be excessive. At other times, for instance, as in Chicago last month, a limit of 500,000 bushels or 100,000 bushels might be excessive, and, for that reason, Mr. Hoover, I believe, had advocated a permanent marketing commission which was to cooperate with the exchanges in the solution of this problem.

Referring to the testimony of Mr. Smith, appearing also for the Department of Agriculture, there is just one impression which I would like to correct, and which I believe Mr. Smith has already corrected in the record.

Mr. Smith stated that if millers and elevator operators said they did not speculate the statement was not true; that it was not uncommon—I am not quoting him, but this is my impression of what he said—for an elevator operator, if a bull market came on, to buy in his hedges and wait for an advance, and then, after realizing a substantial profit, to put his hedges out again; and the converse in the case of the miller, that if he saw a wheat decline come, he might sell the futures which he had purchased against flour sales, and repurchase his hedge on a lower price level.

I am not contending that this is never done. I am contending that in my 30 years' experience on the Minneapolis Chamber of Commerce and the Chicago Board of Trade and elsewhere, I have known, as far as I can remember, of but two instances where I knew that this practice was being followed. In one of those instances my own concern subsequently bought a line of elevators which was controlled by the gentleman who believed in taking in his hedges when he thought the market was going up.

The question was asked Mr. Smith, I think, whether the farmers had profited by the May congestion in Chicago. I can not speak as regards the whole country. I know this: In the Northwest, during the last season, during this last fall, the farmers stored an abnormal quantity of grain. In the lines in which I am interested we had in store in country elevators on May 1 approximately 20 per cent of all the grain which we received from the farmers, stored for account of the farmers. I know that during the two weeks when the Chicago May market advanced so rapidly, other markets followed to a certain

extent, and that on that advanced market a large part of the stored wheat which we were holding for farmers' account was sold, and to that extent the farmers did profit by the advance in the Chicago May futures. I am told that the same thing was true of the farmers of the Southwest.

Mr. Smith makes the definite inquiry: Who will advise the Secretary when limits are necessary? I think one difficulty in the administration of this law, if it becomes a law, will be the fact that there will be always a horde on the doorstep of the Secretary of Agriculture. I believe that every man whose judgment of the market has proven wrong will think that the trouble is not with his judgment, but with the marketing machinery of the country, and I am confident that there will be constant pressure brought upon the Secretary to right wrongs which, in fact, do not exist. It is certain that if there is any attempt at manipulation those who are being harmed will report the matter to the Secretary long before investigation could develop it. Of that I am confident.

There has been a peculiar argument advanced as regards the detrimental effect on the farmer of fluctuations in the market. Mr. Smith says that farmers dislike to sell on an advancing market. I can assure you, if it is your wish, the grain trade will offer no opposition to placing in this bill some provision forcing the farmer to sell at the top of the market; but I do not see how we are going to accomplish that change in his nature, for the farmer is inherently a speculator.

We have flax in store in North Dakota for farmers' accounts, which could have been sold for over $5 a bushel net at the station, but which is worth now about $1.30. The farmer refused to sell at the high price.

I quite agree with Mr. Smith that this is the tendency of the farmer.

Now, Mr. Smith testified as regards the Liverpool market. Of course, no comparison can be made between the Liverpool market and our markets. England is an importing and not an exporting country. The grain business of England—I lived there for a year—is in the hands of large concerns, and they operate in large units, largely in cargoes or parcels, which they merchandise directly to mills. The market is more of a cash market than it is of a futures market, although a few trades are made for deferred delivery.

I had occasion in 1914 to observe the action of the Berlin market. That market at that time had assumed exactly the characteristics, as far as the classes allowed to trade are concerned, which it has been suggested it might be advisable to provide in this country. In other words, only cooperative societies handling grain, millers, and actual grain dealers were allowed to deal in futures on the Berlin exchange. As a result, at least three or four times each year there were periods of extreme congestion such as were witnessed in Chicago last month, and the reason was perfectly obvious.

I am a miller; I buy wheat in the country and I sell a future against it to protect myself against price decline, and I then, if it is to my interest, mill the wheat and perhaps ship it to the seaboard for export. But I have not sold it. The time for maturity of my hedge comes and I find that I can not buy it back, because an exporter has bought that hedge. He wants the wheat, and I have nothing but flour to offer. So, consequently, in Berlin there was a constant series of corners or congested markets, and that is exactly what would happen

if we were to adopt any such provision here. Furthermore, the fluctuations were very, very violent, very much the same sort of fluctuations that we witnessed in the last six or eight months here, and for very much the same reason, that the market was so narrow there was not any volume of trading, buyers and sellers did not meet, and when the buyer went into the market he had to bid until the price was attractive to the seller; when the seller appeared he had to offer his grain until it reached a point that was attractive to the buyer. The market as a hedging market was a farce.

The Hon. George Young made some remarks relative to a controversy that arose some years ago between the Equity Cooperative Exchange and the Minneapolis Chamber of Commerce. I do not care to go into the merits of the dontroversy. It does not interest you at all, but I would like to introduce, if I may, and simply leave here, a copy of the brief of argument in support of the Minneapolis Chamber of Commerce's motion to dismiss the complaint. I can say this, that the complaint was three years old, and it had been lodged in the Federal Trade Commission for three years before it was ever served on the Minneapolis Chamber of Commerce.

The CHAIRMAN. Mr. Wells, I doubt whether the committee should take that brief. If they did that, in justice we would have to do it with all of the briefs on the subject, and it is immaterial to the point here. I do not think it should be printed.

Mr. WELLS. Oh, no; I would not want it printed. I simply offer it in view of the fact that Mr. Young raised the question. I simply offer this in reply, with no comment.

The CHAIRMAN. All right.

Mr. WELLS. I think from Mr. Young's explanation you will see that it is the desire and intent of the cooperative associations to engage in business on a preferred basis on the Minneapolis Chamber of Commerce, in so far as being exempt from the so-called commission rule, which prevents the rebating of commissions.

Again I call your attention to the fact that Mr. Young's statement was to the effect that the member patrons whose grain they handled far exceeded the number of members whose grain they handled.

Mr. Young referred to the grain exchanges as public markets. They are not public markets. They are private associations offering public facilities. By that I do not mean that they should or do constitute any monopoly, for they do not. Anyone can ship his grain to an exchange and have it sold. Anyone with proper character and financial responsibility, who will abide by the rules, may become a member. There is no difficulty on that point whatsoever; but there is a distinction between a public market and a private association offering a public facility.

Mr. Moses, of Kansas City, a miller, made a few statements upon which I would like to comment.

He spoke of the wide fluctuations during the past year. It is conceded that fluctuations have been wide, and I contend that your committee should not, in justice to the marketing system of this country, gauge its value by the operation of the markets since last July. Everything has been abnormal. Go back to a prewar period, judging the merits of the market by its operations under normal conditions, and not under conditions which are absolutely abnormal.

Mr. Moses made the statement that no one would purchase cash wheat and sell September wheat for 30 cents less; that if he purchased cash wheat he would not make any sale against it or he would not purchase it at all if it was at such a premium over September.

I differ with Mr. Moses very radically on that point. Every bushel of wheat, practically, that my elevator companies have bought during the past year has been on the basis of a very substantial premium over the futures, for the reason that there has been an immediate demand for the wheat, which all the time kept it moving at a premium.

Now, it may seem curious to you that I would buy wheat in September, October, or November and sell December wheat as a hedge at a discount, we will say, of 25 cents a bushel. You say, "Where is your protection?" My protection is this: We will say the market was $2 a bushel on an average when I made those purchases at the country points. My protection was in the price level, not in the premium. I had to speculate; I was forced to be a speculator on the premium over the future. What happened? If the price level went down 25 cents between the time that I bought that wheat in the country and the time I marketed it, I was saved that loss of 25 cents a bushel. If the premium maintained the same relation to the futures at the time I sold my cash grain in the Minneapolis market and when I purchased it, I had lost nothing on the premium. If it had gone down 5 cents I would have lost 5 cents on the premium, but I would have saved myself 25 cents on the insurance. That is what happened during the past year. The companies I am interested in insured themselves by hedging on cash grain.

Mr. Moses further said that the miller is not obliged to buy wheat when he sells flour. That may or may not be the case in the Southwest. It is not the case in the Northwest, because our wheat moves during the period of about three months. They can not move anything in the winter to speak of, and the mills with an aggregate capacity of 75,000 barrels a day can not afford to be left in a position where they are devoid of stocks of actual wheat to grind. Consequently, they are forced to buy and will buy and store a sufficient quantity of wheat to insure their continuous operation.

I was rather interested in Mr. Moses's statement that, as far as legislation was concerned, he preferred the first Capper-Tincher bill. You may possibly remember that that bill provided for the shifting of the speculation from a class of traders other than grain merchants and millers to the grain merchants and millers themselves. In other words, it permitted the grain merchants, we will say, to trade in futures to the extent of three times their annual cash grain business. Well, it is perfectly obvious that that does not give the grain merchant or the miller the protection he wishes. It would, however, give him an opportunity for manipulation which does not exist under an open market, because the large handler, we will say, handling 20,000,000 bushels of wheat would have the opportunity to trade in 60,000,000 free of tax, and would meet with no organized opposition that would prevent his domination of the market. On the other hand, it offers no insurance against price fluctuation to the miller or the grain merchant.

Personally, I would consider the form of legislation which you have under consideration far preferable to the original bill.

Another statement was made to the effect that all the wheat of the world is hedged in the United States markets. That sounds very well. but it is not a statement of the actual conditions. In comparison to the total volume of future trading in the United States, very little emanates from foreign sources, and of that small amount the greater proportion is in the shape of purchases, not sales. For instance, an importer in Liverpool has to take care of the requirements of certain mills to which he furnishes cash wheat. He may go into Minneapolis or Duluth or Chicago market and buy 500,000 bushels of wheat futures at a time when he thinks the price is satisfactory, and sell for deferred shippment to his customer in Great Britain an equivalent amount of wheat. That man is simply adding to the buying power in this country, and what we need more than anything else to-day is buyers. Starting last summer the governmental departments urged everybody not to buy, not to buy, talked about profiteering, and about the high level of prices, which must get back to a normal level. An enormous number of buyers has been driven out of the market and we need to cultivate buyers, not bar them out.

As to the volume of Canadian wheat hedged in this country, I know from personal experience, as the largest part of my properties are located there, it is almost unknown for a Canadian firm to hedge grain in the United States markets. I have operated there for 12 years, and I can not remember at any time hedging grain in the United States markets, excepting in the case of oats one or two times, when the Canadian market was so narrow, and the Chicago market was broad, and they were sold in Chicago temporarily, and then transferred back to Canada.

I do not think there is any weight at all to be placed on the statement that all the wheat of the world is hedged in the United States markets, or that any substantial amount of selling is done in the United States markets against wheat which is originating in other sections of the world.

Now, there is one feature which you must consider in connection with any testimony offered here, in my judgment, and that is if a person is opposed to future trading or is lukewarm toward it, against this price insurance, for that is what I call it, is it not possible that the question of self-interest is involved?

I have been asked a good many times, "Why do you object to the elimination of future trading? Your company has ample resources. You could buy on a wider margin. On that volume which you handle you could make two or three times as much money as you are making now." I know that that same view has been expressed to me by a number of large interests. Personally I prefer to sleep nights and to do business on a narrower margin rather than to be the speculator who assumes the price risks.

Just before I conclude, and it will be just a minute, there is one thing that I would like to put into the record relative to this so-called speculative distribution of farm products. It is on page 29 of the report of the Industrial Commission on the Distribution and Marketing of Farm Products.

The economic services of speculative agencies engaged in distributing farm products are threefold:

1. They localize industrial risks among a commercial class whose special function it is to distribute surplus supplies over deficit times and places in such a way as to lessen the uncertainty of producers and consumers.

2. They relieve producers and consumers from carrying a whole year's stock, enabling the former to convert his stock promptly into cash capital and the latter to supply himself as his periodical needs may require without enhancing prices beyond the ordinary rate of risks and returns of such capital investments.

3. Competition of speculative dealers tends more than any other force to reduce profits of those agencies to a minimum per unit of commodity handled. Released from other economic functions it is to their interest to seek to reduce the risks of distribution to a minimum.

By expert acquaintance with the conditions that involve risks the hazardous elements are gradually limited, if not entirely eliminated.

In closing I simply want to say this, gentlemen, that there has been one thing which has impressed me very gravely, both in the hearings before this committee—and I say it in all respect—and in the hearings in the House, and that is the failure to grasp the gravity of any legislation that might disrupt the marketing system of this country. When all is said and done there is not a bushel of grain, speaking in a general way, the price of which is not affected directly by the ability of the shipper to protect himself against price fluctuations. All of the grain may not be hedged, but that which is not hedged enjoys the conditions which result from the hedging of the greater portion of the grain.

The machinery is a very delicate piece of machinery, as is any machine where investors are involved. The investor in grain is like the investor in any other security or commodity. He wishes to exercise his own judgment as to the time when he will sell, the quantities which he wishes to buy, and the quantities which he wishes to sell. If he thinks that any agency can step in and, through the closing of the markets, force him to sell or to buy in closing his outstanding contracts, he will immediately shun those markets.

I am not opposed to making the grain markets of this country directly responsible to some Federal agency for the proper conduct of the markets and for the giving of fair play to all those interested in marketing farm products. I am opposed to any degree of control which will make it possible for any individual, through mistaken judgment or through prejudice, to upset the market conditions which exist in the United States.

Senator CAPPER. The only question, then, between us, is as to whether this legislation will upset the marketing conditions; whether it goes too far in conferring that power upon a governmental agency which already exists, or whether it provides a reasonable supervision, which you say would be all right.

Mr. WELLS. I believe it would be better for everyone if the governing boards of the exchanges were responsible for the proper conduct of those exchanges rather than a governmental agency. I would much prefer to see it come about through Federal incorporation of all grain exchanges on which interstate business is transacted. That is the logical thing, it seems to me. Then you would have definite, fixed conditions, under which a charter will be granted, and if you violate the rules and regulations, it is a matter for the courts to determine whether you have violated them or not. If the charter is violated, the exchange is put out of business, and it deserves to be. They would have something definite to govern their actions.

Senator CAPPER. But I think you said you would be in favor of some kind of legislation?

Mr. WELLS. I favor a supervision which does not extend to the point of regulation. I favor making accessible to the proper Government authority such information as he may require when the public interests demand it.

Senator MCNARY. On that point, Mr. Wells, you submitted to the committee this morning certain amendments which you favored and which you stated, and I have no doubt it is true, were agreed upon by yourself and others representing the various grain exchanges and the Secretary of Agriculture.

Mr. WELLS. No; they were not. Pardon me, if I may interrupt—not representatives of the grain exchanges. They were simply men in the grain trade.

Senator MCNARY. Very well.

Mr. WELLS. Pardon me.

Senator MCNARY. If the proposed measure and the amendments that you have submitted this morning were written upon the statute books and became a law, is it your opinion that that law would place such restrictions and difficulties upon the grain markets as to injuriously affect them?

Mr. WELLS. I believe that if the law as proposed were wisely and fairly administered, the grain exchanges could continue to function satisfactorily. I think that temporarily the investing public might avoid the exchanges, but I think they would ultimately come back.

Senator MCNARY. Then, it would be the way that the Secretary of Agriculture, in the execution of the law, handled the matter, as to whether it would injure legitimate business and trading in grain or not.

Mr. WELLS. That is my belief.

Senator CAPPER. Have you any reason to believe that the Secretary of Agriculture would be inclined to impose unreasonable rules or regulations on the grain exchanges?

Mr. WELLS. I have not, Senator, but I have this knowledge, and you have it to a greater extent than I, that the power has to be delegated to someone, that the Secretary of Agriculture is not in a position to secure the services of men who have had broad experience in the grain or other business to administer these laws. I have been in a Government department myself. I was here for a year and a half, and I know that endless red tape; I know the tendency of the departmental employees to ask for reports, reports, and reports. Many hundreds of tons of reports come into Washington each year that are never even looked at, and I know that that places a tremendous burden upon any business and in the case of the grain business the burden will fall upon the producer as part of the cost of marketing. I know, too, that men of moderate or small caliber, if placed in a position where they can exercise authority, delight in exercising authority to an extreme point. I have seen it myself on the inside of a Government department; so I know how it works. That is my great fear as to the administration of any such law.

I am not afraid of the Secretary of Agriculture if he were going to administer the law, if he were the man who was going to pass on what should be done under certain conditions. I am not afraid of

that. I have the greatest confidence in the present Secretary of Agriculture. It is entirely possible that his successor might be a man of very radical tendencies; but you must remember that the Secretary is going to be the storm center of all of the radicals in every movement, agrarian or otherwise, that arise in the country, and it is a tremendous responsibility to place in the hands of any one man, I don't care what his ability is.

Senator McNary. What was your connection with the Government during the period of the war, Mr. Wells?

Mr. Wells. I was in the War Department and had charge of the distribution of all the supplies for the Army.

The brief which was presented by Mr. Thorne brings out a number of points which I have covered already in my statement.

For instance, he refers to the very small percentage of future contracts that are filled by delivery. I think I have explained to you that while deliveries of future contracts by technical deliveries was small, the percentage filled by the exchange of actual grain for futures was very, very large and aggregates hundreds of millions of bushels.

Mr. Thorne makes a distinction between gambling and speculation which I do not like. He states that:

> Gambling is wagering money or something else of value upon a future contingency, without any bona fide intention to buy or sell any actual property of value.
>
> Speculation is an investment or an agreement to invest in a commodity or other thing of value, which investment or agreement to invest is ordinarily considered to be frought with considerable hazard.

The reason I dislike his definitions is that Mr. Thorne, in continuing his argument, uses the word "gambling" as attaching to future trading operations where delivery is not contemplated.

Now, any future trading, purchase or sale, involves either an investment or an agreement to invest in the commodity or thing of value, and should come under the head of speculation. In the case of hedges against cash grain there is often no intention to deliver that grain in the market where it is sold for future delivery, but still I do not think you can call it gambling. It is nothing but price insurance. The fact that the grain is diverted to some other point does not make it gambling, in my opinion.

Mr. Thorne also referred to the relation between the volume of future trading and the actual receipts in the Chicago market. As I have tried to point out to you, there is no such comparison possible, if one is to be just in considering the subject, because the great bulk of the grain that is hedged in the Chicago market could not, except at a severe loss, an economic loss, ever be diverted through that market.

I resent entirely Mr. Thorne's characterization of the Chicago Board of Trade as a huge gambling institution. I am not a member of the Chicago market. I belong to the Minneapolis Chamber of Commerce, as a member, not as an official or director, but I do not think it is fair to call an institution which provides the underwriting facilities for a large part of the grain raised in this country a gambling institution, and I do not believe it helps to clear the situation.

Senator Capper. A much larger part of the business done on the Chicago Board of Trade is gambling or speculation than on the Minneapolis Board of Trade, is it not?

Mr. WELLS. They have a much larger volume of future trading than we have; oh, yes. We are second in size, but the volume is very, very small as compared to Chicago.

Mr. Chairman, may I ask to insert in the record a telegram which I have received. It has a direct bearing on the question of the value of the markets wherein future trading exists and those markets which have no such facilities. It is from the McCaull Dinsmore Co., of Minneapolis, which is a very reputable, high-grade commission house. It reads as follows:

MINNEAPOLIS, MINN., *June 7, 1921.*

FRED B. WELLS,
Care Shoreham Hotel, Washington, D. C.:

During past two months we have bought wheat from Globe Mills, Los Angeles, and rye from parties in State of Washington for shipment to Minneapolis and Chicago, thus demonstrating our markets with futures trading are much superior to Pacific coast markets where future trading does not prevail. See letter.

THE MCCAULL DINSMORE CO.

This is very interesting, because you will realize the tremendous trade daily in shipping wheat from the Los Angeles section to Minneapolis. They have no futures markets on the Pacific coast, and they are shipping grain halfway across the continent to obtain a market for it. They are exactly in the same predicament with their wheat and rye on the Pacific coast as they are in the South on their rice and beans. They have not been able to sell at any price at any time.

Gentlemen, I thank you very much for the privilege of appearing before you.

(The brief submitted by Mr. Wells is as follows:)

MEMORANDUM ON H. R. 5676.

These views are submitted respecting H. R. 5676 in the form it passed the House and is now before the Senate Committee on Agriculture. These are the views of the grain merchants, those engaged in the business of marketing grain:

First. The chief objection to the bill as it stands is that it places restrictions and difficulties upon grain marketing that must materially break down the grain business, increasing its hazards and increasing its costs. The increase in the cost of marketing must reduce to the farmer the price he gets for his grain, and may also increase to the consumer the price he pays for food products.

In the purpose of the bill to prevent artificial manipulation of prices we are in hearty agreement, but the bill goes way beyond prevention of manipulation and ruinously interferes with the whole grain-marketing machinery.

Grain in the United States is under normal conditions marketed in the most economical manner of any country in the world or at any time in history. This results from the development of the delicately balanced and highly sensitive system now existing. The chief factor in this system is the hedge or price insurance. By it the grain merchant protects himself from market fluctuations, avoids the hazards of pure speculation, and is enabled to handle grain on an extremely small margin. By it the marketing burden on grain is reduced to a minimum. Without it the merchant is faced with future price fluctuations and is driven to exact vastly larger handling margins to protect against loss. These larger margins must come from the price the farmer is paid for his grain.

The hedge requires an adequate volume of trading on the exchanges; this volume must be both large and continuous, so the merchant can buy or sell a hedge at will. If this volume of trading, which is legitimate business enterprise, is violently restricted or destroyed, the hedge is destroyed. Unless changed, this bill does restrict trading and hampers grain marketing in just that way.

The bill does not propose to do away with the present system of grain marketing; it does not offer a new or better system for the old; it proceeds to regulate and control the existing machinery, but in a way that must inevitably disrupt that machinery to the incalculable loss of grain growers.

Grain marketing is one of the greatest business institutions, and covers the nation. It begins with the country elevator, in touch with the farmer, and ends when the product is placed in the hands of the consumer. The men engaged in it are among the best in the business world, not only for enterprise and judgment, but for business ethics. Competition is exceedingly keen; economies are constantly looked for and handling margins are extraordinarily small. Suddenly and violently to disrupt this business, so delicately balanced and so widespread, must work havoc to the grain growers of the nation. The injury to the grain merchants, enormous as it would be, is trifling compared to the universal and incalculable injury that must come to the grain producers, whose ready and relatively stable market has ceased to function normally, and has become vastly more expensive.

A buoyant market means better prices for the farmer. The only thing that makes a buoyant market is an adequate number of buyers. To restrict trading in grain is to reduce the number of buyers, and the market sags. The principle of the bill is to restrict grain trading, a principle we think bad for business, worse for the farmer.

Second. The bill as it stands gives to the Government unwarranted supervision, direction, and control over private business. We do not object, no good citizen can object, to the passage of laws to guide the general activities of any business. But this bill gives to a Government officer the immediate supervision and direction of an enormous private business. During war time, when public safety demanded it, and to some extent in peace time, Government authority has been extended over private matters, but at no time heretofore, either in war time or peace time has anyone proposed that intimate direction of private business contemplated by this bill.

This puts more Government in business, and farther in business, than has ever before been suggested. Notwithstanding the highly specialized character of the business; notwithstanding the experience and sound judgment necessary to manage it; notwithstanding its vastness, grain marketing is subjected to the autocratic control of a Government official, who probably is without personal experience in it. Not only that, but the way business will be conducted will depend upon the personal views of the official. While the office continues, the official will frequently change. No two officials will have the same views. The grain trade will never know what to expect. The personal element will control. At any moment a person may come to the office with a private hobby, or possessed of erroneous information, and throw the whole grain trade into complete wreckage. As the bill stands, the personal order of this official can wipe out an entire grain market, destroying the facilities which insure to the producer a ready and constant market for his grain, and destroying hundreds of millions in property, involving thousands of grain merchants and grain growers. If he can destroy one, he can destroy them all. No such autocratic power should ever be given any official. If it is given him the business will hardly survive. Business simply can not stand the uncertainty, yes, hazard, thus created. Investors will not care to risk their property in any such venture, and prudent men will look elsewhere for employment of their enterprise. Unless this bill is changed in many important particulars, this Government official will become general manager of all the grain exchanges and of all the grain business in the country, and without responsibility. The property will be that of others; the business will be that of others; the loss that of others. He will be master with all the irresponsibilities of an autocrat.

We do not believe this is either good business or good Government. We are, therefore, opposed to this principle of the bill.

Third. Another less important, perhaps incidental, objection is worthy of attention. The bill is drawn in the guise of a tax measure. It is nothing of the kind. It isn't expected to produce a penny in taxes. The sponsors of the bill so stated. The purpose is to regulate boards of trade. Then, why do it under the guise of a tax measure? Only to evade the Constitution of our country. Our fathers who framed, and those who preserved our form of government, said it would not be good government for the Federal power to assume the direction and control of private business. This bill proposes to evade the Constitution. By throwing over its shoulders the mantle of the taxing power it hopes to conceal its true character. It poses as a tax measure, disguised to raise revenue to support the Government, when in fact it is forbidden by the fundamental law of our Government, and is not permitted by the spirit of our institutions. We might urge that our courts must decline to sanction such a subterfuge, and will declare such a law without the power of Congress to enact, but we do not do so; we base our objection to the bill on the ground that its terms will do injury rather than good; that its principles are bad both for government and for business.

While the foregoing sets forth our views on the principles of the bill, nevertheless, recognizing that some legislation is insisted upon, and desiring to do all we reasonably can in a spirit of cooperation, we will undertake to operate under the bill, doing every-

thing we can to make it a success, if, and only if, the following amendments are incorporated. These represent, as we are advised, the views of the Secretary of Agriculture and his assistants, and he approves their incorporation in the bill. These amendments represent the maximum concessions which, in our judgment, can be made and at the same time preserve the integrity of the grain exchanges. They are not satisfactory to us—indeed they are very far from that—but they do change the bill in such particulars as make it, in our judgment, one which, if wisely and fairly administered, would probably permit the grain exchanges to function. If so amended, the bill will be the furthest point to which we can go, but our best efforts will be put forth to make it a success. However, we protest specifically against the inclusion in the bill of that part of section 5, paragraph (d), which provides for limitations upon open speculative lines, and section 5, paragraph (e), in its entirety.

THE BILL.

In section 2, after the word "sorghum," in line 11, it has been suggested that the following be inserted: "The term 'future delivery,' as used herein, shall not be held to include any sale of cash grain for deferred shipment."

The reason is to avoid the complications which resulted from the language in the revenue act some years ago, in which the words "future delivery" were used. It became necessary in the administration of the said revenue act to interpret the words "future delivery" to mean exactly what this amendment means. In other words, the "future delivery" transaction should not be held to include cash grain sales in which the actual delivery of the physical commodity is deferred for later shipment.

In section 3 the bill eliminates from the grain trade those transactions commonly known as "puts" and "calls." We offer no objection to this, simply desiring to call attention to the far-reaching character of this provision. It will eliminate from the futures markets a large volume of trade speculative in character. This great reduction in the volume of trading should be borne in mind as other features of the bill are considered.

The amendment proposed for section 4, paragraph (b), page 3, strikes out all after the word "keep," in line 11, and in lieu thereof inserts the following: "Such memorandum for a period of three years from the date thereof, or for a longer period if the Secretary of Agriculture shall so direct, which record shall at all times be open to the inspection of any representative of the United States Department of Agriculture and United States Department of Justice."

It purposes to clarify the meaning. The language substituted requires the keeping of the record for a period of three years, but if it is to be kept longer a specific order of the Secretary of Agriculture is required. Furthermore, it adds the requirement desired by the Government that these records shall be open to the inspection of any representative of the Department of Agriculture and of the Department of Justice. We have no objection to such inspection.

Section 5, paragraph (a) is proposed to be amended by inserting after the word "grain," line 22, the following: "and having adequate storage facilities and recognized official weighing and inspection service."

The thought is that no grain market is fit to be designated a contract market unless it has adequate storage facilities and a recognized official weighing and inspection service. Certainly no grain exchange should be a contract market unless it possesses these qualifications.

Section 5, paragraph (b). It is proposed to strike out the entire paragraph and in lieu thereof insert the following:

"When the governing board thereof provides for the making and filing, by the board or any member thereof, as the governing board may elect, of reports in accordance with the rules and regulations, and in such manner and form as may be prescribed by the Secretary of Agriculture, and, whenever in his opinion the public interest requires it, showing the details and terms of all transactions entered into by the board or the members thereof, either in cash transactions or for future delivery, and when such governing board provides for the keeping of a record by the members of the board of trade showing the details and terms of all cash transactions entered into by them consummated at, on, or in a board of trade, such record to be in permanent form, showing the parties to all such transactions, any assignments or transfers thereof, with the parties thereto, and the manner in which said transactions are fulfilled, discharged, or terminated. Such record shall be required to be kept for a period of three years from the date thereof, or for a longer period if the Secretary of Agriculture shall so direct, and shall at all times be open to the inspection of any representative of the United States Department of Agriculture and United States Department of Justice."

The reason is that as it stands the paragraph is very uncertain in its terms, except that it puts a requirement upon the board of trade physically impossible for the board of trade to conform to. If the board of trade undertook to keep all these records and make the reports indicated, it would require an enormous army of clerks at vast expense, which expense must inevitably fall upon the grain producer. The substitute provides for adequate records and inspection of reports whenever requested by the Secretary of Agriculture. As this represents the views of the Secretary, it will be possible for the grain trade to conform to the same, but the original paragraph is absolutely impossible.

In section 5, paragraph (d), after the word "including," line 19, it is suggested to insert the words "at such time as the Secretary of Agriculture may deem necessary."

This gives to the Secretary an increased power or an additional duty, but if a limitation is to be fixed on open speculative lines, a practice of which we disapprove, the grain trade prefers that the Secretary of Agriculture should take some of the responsibility. Therefore, the amendment is acceptable.

Section 5, paragraph (e), it is proposed to amend by inserting after the word "trade," line 1, page 5, the words "under the same terms and conditions as other applicants;" also to strike out the proviso, and insert in lieu thereof the following:

"*Provided*, That no rule of a contract market against rebating commissions shall apply to the distribution to its bona fide members of patronage profits by any such cooperative association, substantially all of whose business consists of handling grain produced by its members."

We believe the cooperative associations should be admitted to membership on grain exchanges on the same terms and subject to the same rules and regulations as any other member. It is contended that profits accruing in the operation of these cooperative associations should be distributed on a patronage basis among their bona fide members. The effect of this is rebating of commissions, as the business world has witnessed time after time. Grain exchanges are very rigid in their rules against rebating of commissions by their members. This is the only difficulty that exists in admitting cooperative associations to membership on boards of trade. There is no objection to their becoming members, and never has been, providing they will forego this feature. The rebating of commissions is an unfair element to be injected into business competition. That is the only reason grain exchanges are opposed to it. The cooperative movement has become very strong in Canada. At first cooperative associations demanded admission to the Winnipeg Grain Exchange with permission to distribute their earnings on a patronage basis among their members. This was denied them. Thereafter they became members of that exchange, and have ever since continued to do business on the same basis as any other member, and have been most successful. These cooperative associations include the Saskatchewan Cooperative Elevator Co. and United Grain Growers (Ltd.), the two largest cooperative grain associations in the world, and the Scottish Cooperative Association, which purchases in Canada supplies for its mills in Scotland.

All are members of the Winnipeg Grain Exchange and numerous exchanges in the United States, and enjoy no privileges other than those accorded to other members. It is our contention that there is no valid reason for admitting cooperative associations to membership in boards of trade with privileges which are refused to other members. If, however, the intention is that cooperative associations must be favored, that is, must not only be admitted but must be admitted on special terms for the purpose of enabling them to distribute their commissions or earnings among the members, then the requirement proposed is absolutely essential to accomplish this and to protect against abuses. As amended, cooperative associations may distribute their earnings among their bona fide members. It, however, will prevent, under the guise of a cooperative association, the forming of an organization which deals generally in grain to secure business by rebating of commissions.

In section 5, page 5, it is proposed to introduce a new paragraph to be paragraph (f), reading as follows:

"When the governing board shall provide for making effective the final orders or decisions entered pursuant to the provisions of paragraph (b), section 6, of this act."

We have no objection to this amendment, and think it should be included to make effective the succeeding section.

Section 6 of the bill as drawn gives to the Secretary practically unlimited and autocratic power. At his whim or caprice he could withdraw the desgination of a board of trade as a contract market, and with one stroke of his pen wipe out the facilities which insure to the producer a ready and constant market for his grain, many hundreds of millions of investment, and property belonging to thousands of people, including grain growers, small investors, and grain merchants. To shut up a board of trade for a few days only would be sufficient to accomplish this. Furthermore, the proceeding is

against the board of trade itself and not against offending members. No board of trade is going to undertake manipulation of the market; no board of trade ever did. If manipulation is ever attempted, it is attempted by an individual or two or three individuals at the most. The procedure should be against offending members and not against the board. Therefore, clearly there should be two proceedings, one against the board of trade if it fails to live up to the provisions of this act, the other against the offending member guilty of improper conduct. Therefore, a substitute is proposed, the proceeding in the first paragraph thereof being against the board, the second proceeding in paragraph (b) being against the member. The power to revoke the designation of a board of trade as a contract market should not rest with a single individual; therefore, the proceeding against the board by the amendment is changed only in the matter of substituting for the Secretary of Agriculture a commission consisting of the Secretary of Agriculture, the Secretary of Commerce, and the Attorney General. Paragraph (b) of the amendment is new and makes a very drastic and effective method of handling any grain merchant who is attempting manipulation. It is suggested that the proposed amendment vastly increases the effectiveness of the bill, as well as removing one of its greatest defects.

After section 6, it is proposed to introduce a new section, numbered 7, as follows:

"SEC. 7. Any board of trade that has been designated a contract market, in the manner herein provided, may have such designation vacated and set aside, by giving notice in writing to the Secretary of Agriculture, requesting that its designation as a contract market be vacated, which notice shall be served at least ninety days prior to the date named therein as the date when the vacation of the designation shall take effect. Upon receipt of such notice, the Secretary of Agriculture shall forthwith order the vacation of the designation of such board of trade as a contract market, effective on the day named in the notice, and shall forthwith send a copy of the notice and his order to all other contract markets. From and after the date upon which the vacation becomes effective, the said board of trade can be thereafter again designated as a contract maker, by making application to the Secretary of Agriculture in the manner herein provided for an original application."

This is simply to permit a board of trade on its own motion to withdraw its designation as a contract market. The reason is that a board of trade may find it impossible to do business under this act, continuing future trading, and therefore it will desire to withdraw from all future trading, and consequently desire to be relieved from supervision by the Secretary.

In section 8, line 17, page 7, it is proposed to strike out the following words: "and such parts of reports made to him under this act." Such reports should not be published as such, nor should parts thereof be so published. All the publicity the Secretary desires is provided for elsewhere. After the word "public" in line 19 at end of section 8, it is proposed to insert the following: "except data and information which would separately disclose the business transactions of any person, and trade secrets or names of customers."

This is the exact language used in the Federal Trade Commission act. It safeguards business secrets that should be kept secret, but yet does not prevent any publicity that may be of real value.

At the end of section 8 it is proposed to insert a proviso, as follows:

"*Provided*, That nothing in this section shall be construed to prohibit the Secretary of Agriculture from making or issuing such reports as he may deem necessary, relative to the conduct of any board of trade, or of the transactions of any person found guilty of violating the provisions of this act under the proceedings prescribed in section 6 of this act: *Provided further*, That the Secretary of Agriculture in any report may include the facts as to any actual transaction on any board of trade without divulging the names of the persons therewith connected."

This gives to the Secretary power he desires in the way of reports and publicity. It is not objected to by us.

In section 11, page 8, amendment is offered, striking out the words "sixty days" in line 12, in lieu thereof inserting the words "four months."

It will not be possible for any board of trade to comply with the requirements of this act so as to be designated as a contract market within the short period of 60 days after the passage of the act. At least four months will be necessary.

The CHAIRMAN. I have received by mail from Mr. Clifford Thorne an argument upon this bill, and, as has been stated on the face of the argument, it is presented to the committee on behalf of the American Farm Bureau Federation.

Without objection, the reporter will incorporate this statement in the hearing at this point.

(The argument presented by Mr. Clifford Thorne, thus referred to, is as follows:)

STATEMENT RELATIVE TO TRANSACTIONS ON THE GRAIN EXCHANGES OF THE UNITED STATES, AND THE JUSTIFICATION FOR THEIR REGULATION AND CONTROL BY THE GOVERNMENT.

[Presented to the Senate Committee on Agriculture on behalf of the American Farm Bureau Federation, by Mr. Clifford Thorne, June 1, 1921.]

There are two distinct functions being performed by the Chicago Board of Trade: First, the legitimate merchandising of grain; and, second, speculation in futures. Chicago is the greatest grain market in the world. The farmer has no desire to injure or interfere with this portion of the activities on the Chicago Board of Trade. As a common meeting point for the buyers and sellers of grain, this institution is performing a great service.

Our remarks will be directed chiefly to the second class of activities mentioned above. We will endeavor to present authoritative facts to this committee in regard to the character of their trades in futures; whether they can be legitimately described as bona fide investments or gambling; and as to the real volume of the speculative transactions in futures compared to the actual purchases and sales of grain: and lastly, we will undertake to suggest some remedy for the situation as we find it. We shall undertake the hazardous task of defining gambling and speculation, stating the distinct characteristics that differentiate one from the other.

We have been much interested in glancing over the testimony of Mr. L. F. Gates, former president of the Chicago Board of Trade, in his attempt to distinguish between speculation and gambling, in his testimony before the House Committee on Agriculture in the United States Congress. Mr. Gates stated, "Speculation is the assumption of an existing risk; gambling is an assumption of a risk that is self-created." Applying Mr. Gates's test, we assume he means that a person who bets on the flip of a coin is gambling because he creates the risk, but a person who bets on the rise or fall in the prices of grain is not gambling because that is a risk which he has not created. In the same way I presume a man who is betting on a baseball game or a horse race is not gambling because he did not create the risk. A man who bets on the weather next summer or the result of an election is not gambling, because that is a risk that necessarily exists and is not created by the man making the wager.

We can not accept such a definition, and we do not believe that you will do so. The intent is all-controlling. It is exceedingly difficult to draw the exact line of demarcation between night and day, but we will admit that there is an important difference between the two, legally and actually. Sometimes it is hard to determine whether a given transaction can be legitimately called speculation, investment, or gambling. They merge into each other. I shall undertake to frame a definition for these terms that will draw that line hard and fast whenever you gentlemen can tell me the exact hour and minute when night becomes day, when a pup becomes a dog, a kitten a cat, a pig a hog, or a politician a statesman. However, I shall venture to make a definition or two that may be of some slight assistance in our presentation.

Gambling is wagering money, or something else of value, upon a future contingency, without any bona fide intent to buy or sell any actual property or service of value.

Speculation is an investment or agreement to invest in a commodity or other thing of value, which investment or agreement to invest is ordinarily considered to be fraught with considerable hazard.

The distinction between speculation or investment and gambling is the intent. As applied to the sales of grain, for example, if A agrees to sell to B 5,000 bushels of grain, to be delivered 60 days from date, and there is a bona fide intention to deliver the same, the transaction is not gambling. This is true even though later A may change his mind and settle upon some other agreed basis.

However, if A agrees to sell 5,000 bushels of grain to B, to be delivered 60 days from date, and there is no real intention upon the part of either man to deliver or to receive the grain, but rather that the contract shall be settled between them upon the payment of the difference between the contract and market prices on or before the delivery date, that transaction is gambling.

The contract may be precisely the same in form in both cases, and yet in one case the transaction is a legitimate business deal, while the other is gambling pure and simple.

There is nothing remarkable about that difference. If I place a gun to my shoulder, pull the trigger and fire it, killing some other person, that may be murder or it may not be murder, according to the intent. Sometimes it is difficult to prove intent; under other circumstances intent will be presumed.

On the futures market of the Chicago Board of Trade there are approximately 18,000,000,000 bushels of grain bought and sold annually, and approximately 50 per cent of these, or 9,000,000,000 bushels consist of wheat (for a five-year average this has been between 19,000,000,000). The figures just stated are based on the reports of the Internal Revenue Department, assuming that the members of the exchange paid a tax upon all transactions subject to the tax, as computed and reported by the Federal Trade Commission. The estimate just stated is less than that made by Mr. Gates previous to the publication of the commission's report, his estimate giving a total volume of 20,000,000,000 bushels, 10,000,000,000 of which consisted of wheat transactions.

Approximately 325,000,000 bushels of grain are shipped annually into the Chicago market. In other words, the number of bushels of grain dealt in on the futures market of Chicago is fifty-one times as great as the number of bushels actually received at the market. The number of bushels of wheat raised in the entire world during the past five years, according to official reports, has averaged 2,848,000,000 bushels. In other words, the number of bushels dealt in on the futures market at the Chicago wheat pit is over three times as great as the total production of wheat in the entire world.

According to the decisions of the courts, if a man makes a contract to sell 5,000 bushels of wheat to be delivered at some future date and does not intend to make delivery, that is a gambling transaction. It now becomes of interest to ascertain how many bushels of grain under the rules of the Chicago Board of Trade are available for delivery on contracts consummated on the futures market of the Chicago Board of Trade. We find that the total number of bushels available for such delivery amounts to less than twenty-eight-one hundredths of 1 per cent of the number of bushels sold on the futures market. In other words, on over 99 per cent of the transactions no deliveries are made. The question then arises: Did the parties to these future contracts intend to deliver?

On this issue the courts have differed. In Board of Trade *v.* Odell Commission Co. (115 Fed. Rep., 574), the court held that transactions on the Chicago Board of Trade were largely made without any bona fide intention of making delivery. The court said:

"Bucket shops are the offspring of the Chicago Board of Trade and kindred organizations, to which they still look for substance and life, and they can only be effectually supressed by striking at the root of the evil. When this species of gambling on the commercial and stock exchanges of the country disappears the bucket shops will disappear, and not before."

In Board of Trade *v.* Donovan Commercial Co. (121 Fed. Rep., 1012) the court said:

"I am satisfied by the proof that a very large per cent of the so-called sales for 'future delivery' which furnish the basis of the quotations in question are mere gambling transactions involving no purpose on the part of the seller to deliver and no purpose on the part of the buyer to receive the subject of the sale. * * * The proof shows that largely over 90 per cent of all the transactions in the 'pits,' which alone determine the 'continuous quotations' which are sent out over the country are in fact closed out by settlement of differences, and that actual deliveries of the articles bought or sold are rarely ever made."

In Christie Grain & Stock Co. *v.* Chicago Board of Trade the circuit court of appeals, consisting of Circuit Judges Sanborn and Vandevanter and District Judge Shiras, held as follows:

"The estimates of the witnesses vary as to the percentage of the transactions in which actual delivery was contemplated or had running from 1 to 15 per cent, this providing that at least 85 and more probably 95 per cent of the transactions would come under the condemnation of the Illinois statute. We do not deem it necessary to set forth the details of this testimony, which can be found in the opinion of Judge Thompson in the case of The Board of Trade of the City of Chicago *v.* O'Dell Commission Co. (C. C.), 115 Fed., 574. In that case and in Board of Trade *v.* Donovan Commission Co. (C. C.), 121 Fed., 1012, upon consideration of substantially the same evidence submitted in this case, the conclusion was reached that over 90 per cent of the transactions had on the floor of the exchange hall maintained by the Chicago Board of Trade were purely gambling transactions.

"It is thus proven beyond all reasonable question that the Chicago Board of Trade maintains in the building owned by it in the city of Chicago a place known as the

'Exchange Hall,' wherein the members of the board, acting for themselves, and also as brokers for outside parties, engage in making and carrying through deals in grain and provisions, in which it is not intended to make a future delivery of the article nominally dealt in, but which are to be settled by the payment of money only according to the fluctuations of the market and which are in all essentials gambling transactions."

The Supreme Court of the United States, in Embrey *v.* Jamison (131 U. S. 336), had under consideration a contract for the sale of cotton on the basis of one party paying to the other party only "the difference between the contract price and the market price of said cotton futures, according to the fluctuations in the market." The Supreme Court said: "If this be not a water contract, under the guise of a contract of sale, it would be difficult to imagine one that would be of that character. The mere form of a transaction is of little consequence. If it were, the statute against wagers could easily be evaded."

Benjamin on Sales has the following comment concerning trades in futures: Such a contract "is only valid where the parties really intend and agree that the goods are to be delivered to the seller and the price to be paid by the buyer. If under the guise of such a contract the real intent be merely to speculate in the rise or fall of prices, and the goods are not to be delivered, but one party is to pay to the other the difference between the contract price and the market price at the date fixed for executing the contract, then the whole transaction constitutes nothing more than a wager and is null and void under the statute."

This doctrine was approved by the United States Supreme Court in Irwin *v.* Williard (110 U. S. 409, 508, 510): "It makes no difference that a debt or wager is made to assume the form of a contract. Gambling is none the less such because it is carried on in the form or guise of legitimate trade."

The Christie case cited above was reversed by the Supreme Court in a decision reported in 198 U. S., 236, the issue being the property right in the quotations on the exchange. The Supreme Court distinguished between purchases made with the understanding that the contract will be settled by paying the difference between the contract and the market price at a certain time and the facts involved in that proceeding, the court holding that purchases just described stand on a different ground from purchases "made merely with the expectation that they will be satisfied by set-off." The court said there are two methods of settlement on the exchange, first, by the direct method, in setting off contracts to buy against contracts to sell and paying the difference, and, second, the ring settlement, which is "simply a more complex case of the same kind." The gist of the decision was that a set-off has all the effects of a delivery without any physical handling of the grain.

In the light of the decision of the Supreme Court in the Christie case the transactions on the Chicago Board of Trade, so far as the members of the exchange are concerned, are not gambling transactions even though the members do not expect to deliver any grain, but do expect to set off purchases against sales, and then make payment of the differences.

If these gentlemen intend to settle their contracts for the sale of grain by the pay- of differences between the market price and the contract price the transaction is gambling, according to the decisions of our Supreme Court, but if, on the other hand, they do not intend to settle by the payment of differences, they are valid transactions. If we call these setoffs instead of payments of differences, the transaction is immediately transformed from an invalid gamble to a legal trade, chiefly by the use of legal phraseology.

One learned gentleman has stated in this way: "The intent to deliver on a future contract does not presuppose a specific expectation to deliver." In other words, I may intend to do something which I do not expect to do. Considering the fact that in over 99 per cent of the transactions on the futures markets no deliveries of actual grain are made, it is difficult to conceive how these gentlemen intend to make deliveries.

According to mortuary tables you gentlemen have about 2 chances in 100 of dying during the coming year. According to the above line of reasoning, you and I may not expect to die, and you and I do not want to die but nevertheless all of us intend to die during the coming year.

If I had a Gatling gun on a busy street corner of New York City and should fire it, at the same time revolving the gun on a pivot so that it would kill in about 99 cases out of 100, I wonder if I could persuade a jury to free me from the charge of murder because of the lack of an intent? Isn't it fair to say that if these gentlemen settle their contracts by the payment of differences in 99 cases out of 100 that the probabilities are that they intend to settle in that manner and that there was no genuine bona fide intent to deliver the grain?

The Supreme Court does not make the law; you gentlemen are the makers of the law. I think it is a fair deduction from the facts which we have presented that the great bulk of the transactions on the futures market of Chicago have all the essentials of gambling. In stating this I have said nothing more than what several courts have declared to be true.

Now let us consider the real size and importance of this institution. I find that the Louisiana Lottery in its palmiest days, according to the highest estimates made by any reputable authority, did less than $60,000,000 worth of business. Conservative estimates have placed the maximum at $30,000,000. Contrast that with this huge institution in the center of our country on which there are over $15,000,000,000 wagered annually. On Monte Carlo I find the estimates of the volume of gross receipts of the company operating that institution to be in the neighborhood of $10,000,000 to $12,000,000 annually, and its net receipts to be approximately $5,000,000 or $6,000,000 annually.

Assuming that 52 per cent of the trades on the Chicago futures market are made by members for themselves without the payment of any commissions, and that 28 per cent are made by members for members at one-half the regular commissions (as noted by a writer on behalf of the board), and the balance are made for outsiders on full commissions, the commission received on the Chicago market for an average year will aggregate more than three times the total estimated net receipts of the company operating Monte Carlo. The Chicago Board of Trade makes the Louisiana Lottery and Monte Carlo look small.

STABILIZING THE MARKET.

We are told that the existence of a wide speculative market serves to stabilize prices. In other words, it is necessary to conduct a Monte Carlo in the grain industry in order to stabilize prices on grain. We believe it is true that the existence of a large speculative market will tend to reduce the fluctuations occasioned by individual transactions at any given moment. On the other hand, we believe that the existence of a large speculative market tends to enhance or exaggerate the fluctuations on the price lever as a whole over any given period of time. The vast bulk of the profits made by commission on the Chicago Exchange are derived from the operations of the futures market. We have shown that these are many times greater than actual sales of grain. It is to the financial interest of these gentlemen to have constant and wide fluctuations in prices—that is where the speculator makes his money. The greater the variations the more money he makes. Instead of stabilizing the market the speculator is constantly forcing price changes in both small and large amounts.

However, there is one function performed by the speculative market which serves as an insurance for the elevator, the miller, and the exporter. It furnishes a hedge. The farmers of the country want the gambling eliminated from the grain exchanges. They want to eliminate the speculation in futures by people who do not have any grain, do not expect to get any, and do not intend to make any deliveries to persons who on the other hand do not expect, do not want, and do not intend to receive the grain. The farmers do not want speculation in futures eliminated at the present time if it will restrict or eliminate the opportunity to hedge. They take this position not because the hedge protects the farmer, because the farmer don't use it, but because of the insistence on the part of the intermediary operators that they do use it. The farmers are now attempting to devise some other method by which this insurance against the risk can be carried.

It is our suggestion that the agricultural interests of the country, as well as these business interests, be given a reasonable time to readjust their methods of operation and that no radical change be made at the present moment. It might be advisable to fix some date certain in the future, at which time speculation in futures on the markets shall cease. (A similar method was adopted in the safety-appliance legislation.)

It is not our purpose to eliminate or even to injure any of the legitimate merchandising of grain on the Chicago market or any other grain exchange in the United States. We simply desire to see speculation in futures without any intent to make deliveries, but to settle on the basis of differences, absolutely eradicated, if that be possible. It is a great moral wrong to maintain such an institution in our midst, and to allow such an organization to be our price-determining machinery on one of the great staple food products of the American nation, must be countenanced as the permanent policy of this nation.

SUMMARY.

The Chicago Board of Trade is the greatest market for actual grain in the world. The farmers of the United States do not want to see this institution eliminated. How-

ever, there has grown up alongside this grain market, in fact, in another part of the same room where real grain is bought and sold, a speculative market for dealing in what are commonly called "futures." These transactions are carried on in the "pits." There are two classes of future trading, first, by parties who have an equivalent amount of actual grain which they intend to deliver, and second, those who do not have any grain, don't want to have, and never expect to have—people who are merely betting on the rise and fall of market prices. We do not object to the legitimate marketing of actual grain, and we do not object to the sale of futures by parties having an equivalent amount of actual grain to deliver

That there is gambling on the Chicago Board of Trade we have offered the following for your consideration:

1. Decisions by State courts, Federal courts, and the Supreme Court of the United States.

2. Authoritative statistical data demonstrating the enormous volume of transactions on the futures market compared to actual deliveries of grain. This evidence can be summarized as follows:

(*a*) The number of bushels of wheat bought and sold on the wheat pit of the Chicago Board of Trade averages per year three times as much as the total production of wheat in the entire world.

(*b*) There are fifty-one times as many bushels of grain sold on the exchange as there is grain shipped into Chicago, and only a portion of this grain actually received at Chicago is available for delivery on the futures market, according to the rules of the board of trade. A single house on the Chicago Board of Trade will sell in three days as much grain as is capable of being delivered on the futures market during the entire year.

(*c*) The actual grain available for delivery at Chicago on "future" contracts averages less than twenty-eight hundredths of 1 per cent of the number of bushels bought and sold on the board of trade. In other words, over 99 per cent of the sales on the "futures" market are not followed by the actual delivery of the grain.

This statistical data have been carefully compiled by experts, and we challenge any person to show any substantial error in any portion of the same.

They sell approximately 18,500,000,000 bushels of grain on the "futures" market at Chicago annually, at a value ranging from $15,000,000,000 to $20,000,000,000.

We have cited reputable authorities showing that the total volume of transactions on the Louisiana lottery aggregated not more than $60,000,000 annually, compared to the modest sum of more than $15,000,000,000 involved in the speculations annually on the Chicago Board of Trade.

We have reported to you the result of a conference with a former employee of the bank at Monte Carlo, and we have cited authoritative statements as to the operations at Monte Carlo, which show that the total net receipts of that institution do not average more than one-third the commissions alone derived from the sales on the "futures" market of the Chicago Board of Trade. The gambling on the Chicago Board of Trade makes the Louisiana lottery and Monte Carlo look very small and insignificant.

If a purchase and sale of grain consummated by parties who do not have any grain to deliver on the contract, and who do not want to receive any real grain, who do not expect to have any grain delivered or received, and who, in more than 99 cases out of 100, settle their contracts by the payment of differences, is gambling, then we have demonstrated the fact that the Chicago Board of Trade is the greatest gambling institution ever seen upon the face of the earth.

This stupendous speculative market constitutes our price-determining machinery on grain. We object to certain phases of its present operations for the following reasons:

Because the most important function of the entire institution is under the control and domination of speculators. The dealer in actual grain is completely overshadowed.

Because the existence of an enormous volume of speculation supports a large corps of professionals, who make their livelihood by the ups and downs of the market instead of by legitimate investment; their very presence on the exchange, their constant organized activities, instead of stabilizing the market, tend to unsettle the market, causing violent price fluctuations from which they are able to reap their profits. That is a natural result, because it constitutes the major portion of their livelihood.

Because the credit resources involved in these vast speculative transactions, aggregating literally billions of dollars annually, should be employed in productive channels. The margins alone constitute a very large sum of money.

Because the cost in commissions and the other expenses incidental to the enormous trading in futures constitutes an excessive premium on the so-called insurance, which produces a direct economic loss.

Because it is unwise to maintain a huge gambling institution in our midst. Other industries have not found this to be necessary.

We suggest the following remedial measures:

1. Investigation and supervision of the activities of the grain exchanges, which should be just as intelligent and effective as is the present regulation and control of our national banks.

2. Open the exchanges and cooperative organizations of farmers. Cooperative organizations which distribute their savings in proportion to business done (known as the patronage basis) to-day are barred from practically all the grain exchanges in the United States.

3. The ultimate elimination of short-selling on the "futures" market.

Regardless of the technical differences in effecting settlements at the different grain exchanges, transactions between the houses and between customers are closed by the payment and receipt of profits and losses or net balances, and not by the delivery and receipt of commodities purchased with the accompanying payment and receipt of the purchase price. In essence, settlements are effected by the "payment of differences." This is true of 99 per cent of the trading in futures at the Chicago market.

The Federal Trade Commission has described the accounts kept by a commission house with a grain-future customer in the following language:

"The regular ledger account of the grain futures' customer is different from the similar account of a customer in any other business in respect to the fact that there are no debits for the gross value of commodities dealt in, but only net entries for profits and losses on trades, unless a warehouse receipt is actually taken in on delivery and paid for. The assumption is that future transaction will be set against future transaction, and that the customer is interested only in the net."

The accounts of settlements between commission houses are described as follows:

"The settlement book shows how the trades between houses are closed out. It is the record of differences, debit or credit, due to or from commission houses, to be paid through the clearing house."

If these transactions are not settled by the payment of differences, we do not know what contracts can be so settled. There has been considerable conflict in the decisions of the courts. However, as previously stated, you are the makers of the law.

It has been held by the Supreme Court that you can not describe as income that which is not income. On the other hand, the same court has sustained your declaration as to what constitutes intoxicating liquor. There can be little doubt but what the proper legislative body can prohibit all dealings in futures, within its jurisdiction, if it determines to do so. (Booth *v.* Illinois, 184 U. S., 425; Pearce *v.* Rice, 142 U. S., 28.)

There was a time in old English law when wagers were not unlawful, but in this country our legislatures and courts have branded gambling contracts as against public policy and void. In many jurisdictions fines and imprisonment are provided by statute as punishment for those who maintain gambling institutions.

The insidious influence of the gambling instinct has been one of the greatest evils with which we have had to contend. And yet, whenever the community has been thoroughly awakened to the existence of this practice in any of our various industrial activities, the States and the Nation have ultimately acted effectively in getting rid of the evil. The fact that church raffles, betting on elections, baseball games, etc., still continue is no more an argument for permitting the practice of gambling to continue without any effort at checking it by law or otherwise than the continued existence of thieves and murderers constitutes a justification for the repeal of the laws against stealing and murdering. Society has made very substantial progress in getting rid of such practices since the days of savagery, and we propose to continue along similar lines in the future. What is fundamentally wrong can not be right.

The CHAIRMAN. Now, Mr. Lyman, you wanted to be heard briefly?

Mr. LYMAN. Yes, sir.

STATEMENT OF MR. CHARLES A. LYMAN, SECRETARY OF THE NATIONAL BOARD OF FARM ORGANIZATIONS, 1731 I STREET NW., WASHINGTON, D. C.

Mr. LYMAN. Mr. Chairman, I am here to represent the member organizations of our board that are particularly and primarily interested in the marketing of grain. In that group are included the various farmer union organizations, and also equity organizations.

The Kansas Farmers' Union is one of those organizations. Out in the Northwest the Tri-State Terminal Elevator is another that functions through our board.

A short time ago there was a large farmers' union mass meeting held here in Washington and at that time I find that they investigated the future-trading bills that were up for consideration and that they gave the Capper-Tincher bill indorsement. The statement in that respect reads:

"We move upon behalf of the grain farmers the adoption of this bill"—that is, the Capper-Tincher bill—"as our expression of the legislation needed."

That is taken from the minutes of the Farmers' Union meeting held here in Washington on April 20 to 22 of this year, and from a reading of these, Mr. Chairman, and from the various letters and communications which we have received, and from verbal instructions, it is very clear that I am not here to-day to ask for anything that would weaken this bill. I came here for the purpose of making sure if there might not be certain ways developed to strengthen the bill.

I want to point out a few of those things, simply in a tentative way, for your consideration.

I do find, Mr. Chairman, in these same proceedings another passage here, as follows, showing that the Farmers' Union people, at least, are not at all sure that they are going to have proper protection for their cooperatives on the grain exchanges.

With your permission, I will read this, as it is very short:

E. M. Pollard spoke of the unjust discrimination against cooperative grain companies by various boards of trade, and moved the adoption of the Steenerson bill, now pending in Congress, as our expression of the legislation needed to place our farmers' grain companies on a par with other grain-handling companies. The motion prevails and we print below a copy of the bill.

A copy of that bill is printed below. On the preceding page there is printed a copy of the Capper-Tincher bill, which is under consideration here.

From that I think it is fair to assume that the Farmers' Union people are not satisfied with the guaranties in that bill, as it now stands; that they will have proper protection for their cooperatives. Of course, by that we mean permission for them, should they be members of the grain exchanges, to return their earnings to their patrons on a patronage basis.

It is also true that the Farmers' Equity Union is particularly intereested in having the right to belong to the grain exchanges and to prorate their patronage dividends.

Mr. C. O. Drayton, the president of the Farmers' Equity Union, is traveling out through the grain country now. I have been in touch with him to-day by wire, and I know that he is particularly interested to have this safeguarded. His organization has a representative on the Kansas Board of Trade handling grain for its grain associations. They are not allowed to return their dividends on the patronage basis. That has led to a lot of heartburnings and misunderstandings, and certain other marketing groups have said that they are not a cooperative organization. As a matter of fact, they are a very fine cooperative organization, and they have been putting these earnings into a surplus fund and are ready at any time they can, without

eopardizing their position on the grain exchange, to make returns on ι patronage basis.

Senator McNary. Do you think, Mr. Lyman, that they would be excluded under this provision?

Mr. Lyman. Well, I am going to take that up and ask you people whether you do not think that they will be. Of course, if the Secretary of Agriculture rules in a certain way they will probably be allowed to do that, but as I see it, there is no provision in the bill to make certain that any secretary, the present secretary or his successors, would make such a ruling.

The Chairman. Were you here when the amendment to that particular provision of the bill suggested by the Secretary of Agriculture was read by the witness who preceded you?

Mr. Lyman. Was that this morning?

Senator McNary. Yes; this morning.

Mr. Lyman. Yes, Senator; I was here at the time. Of course I would like to read it and study it a little. It may be that amendment would be an improvement. However, there are so many other amendments there that were offered by the preceding speaker that I would not want to give any indorsement until I had had a chance to go over them pretty carefully.

Senator McNary. The cooperative organization, as I understand it, really pays no dividends, but returns to its members all sums of money derived from the sale of its produce, less operating expenses; and then there is another cooperative, known as the patronage profit cooperators.

Mr. Lyman. Yes, sir.

Senator McNarry. Where a few men will assemble and invest their capital and receive a certain guaranteed dividend, and all above that is distributed as earnings among the patrons having no investment—distinctively different in character. Now, this proposed amendment made by the secretary and referred to by Mr. Wells this morning limits those patronage profits of cooperative organizations to those institutions where substantially all the business consists of handling grain produced by their members. In other words, if you find where the patronage members far exceed the number of real members composing the cooperative organization they could not, perhaps, become members of a contract market, but those patronage cooperative organizations where substantially all of the business done is handling the members' grain could become members, even though they rebate or prorate their profits. Now, that is the understanding I have of this bill and the amendment offered.

Mr. Lyman. May I go into this a little further?

Senator McNary. Yes.

Mr. Lyman. The first type of organization, known as the Rochdale type, is the one that is most closely identified with the farmers of this Nation as the real cooperative. The nonstock, nonprofit plan is an outgrowth. It has its good points and it has its adherents, and it is largely, I think, because of section 6 of the Clayton Act, which provides for nonstock, nonprofit associations, but I think the great majority of the farmers in this country who have been identified with agricultural cooperation adhere to and cherish the Rochdale movement, for the reason that it is based on the agricultural cooperative

movement that you find obtaining in most parts of the world, and it provides for the building up of a surplus against a rainy day and against the unfriendly forces that may come along after awhile, while under the nonstock, nonprofit plan there may come a day when there will be some change in sentiment, some unfriendly propaganda, and it may be hard then to call in the money and make the assessments that would be necessary to carry on the business.

Now, in regard to this amendment, I would rather take the bill, with your permission, as it stands now, for the reason that the bill is under consideration, and we have not had an opportunity to see these various amendments which have been introduced by the grain interests, after consultation with the Secretary of Agriculture. I suggest, Mr. Chairman, it might be advisable to ask the Secretary of Agriculture to appear before your committee.

The CHAIRMAN. I think, Mr. Lyman, from talking with members of the committee, it is the universal opinion that we ought to extend to the Secretary an invitation to come.

Mr. LYMAN. Yes, sir.

The CHAIRMAN. Without suggesting that we are asking him to come.

Mr. LYMAN. Yes, sir.

The CHAIRMAN. I think we ought to extend him the courtesy of being here, and we would like to have him come.

Mr. LYMAN. I think that will be fair and I hope you will send invitations to the various representatives of the farm organizations to appear here.

The CHAIRMAN. Well, I think they all understand that. Now, I will say that while I have not communicated with the Secretary, we would like to have him here at 10.30 to-morrow morning, and I will have my office get in communication with him.

Mr. LYMAN. In connection with these amendments, I am sorry that they have come up at this time, and I am expressing my own personal feeling for the reason that Mr. Morrill, who has been before you on a number of occasions and who did so much work in connection with the bill in the House, is out of the country. He sailed last week, I believe, for Liverpool, to attend an international cotton conference. No doubt you realize that Mr. Morrill is a man who has given this whole matter most careful consideration. I did not hear Mr. Morrill make any suggestions along the lines of many of the amendments which have been presented to-day. I am sorry that Mr. Morrill can not be here, but no doubt there are other men over there in the department who are more or less familiar with the bill.

Mr. Chairman, on the first page of the act under consideration it occurs to me that it might be advisable to insert the phrase "joint-stock corporations." I recall the hearings on a certain case of the Federal Trade Commission where the Federal Trade Commission lost out, for the reason that a very able attorney—I think it was Mr. Elihu Root, or perhaps Mr. Charles E. Hughes—dug carefully through the Federal Trade Commission act and found that in one paragraph the lawmakers had put in "joint-stock corporation" and in another paragraph they had left it out. It happened to be a joint-stock corporation. Now, I am not a lawyer and I do not know the exact difference, but I am simply citing this case, and you can verify it by getting in touch with members of the Federal Trade

ommission, to suggest that you look over section 2 and make sure hat you have covered everything.

There may be other terms there that should go in.

We made this same suggestion with reference to the packer bill. n that case we mentioned the desirability of putting in trusts, states, etc. In the Clayton amendment I notice that they have he definition of "person" or "persons," and it seems to me that that s very embracive, and that that should be checked up in connection vith this same section.

I am mentioning some of these things to you members of the ommittee, because I do not feel at all certain that I am right about hese suggestions. You have lawyers on this committee, but I do now that a certain case was ruled out of the jurisdiction of the Federal Trade Commission because in one paragraph they had 'joint-stock corporation" and in another paragraph they left it out.

The CHAIRMAN. You are suggesting that we put in the definition of 'person" and all that sort of thing?

Mr. LYMAN. Yes; broaden that a little bit.

Now, I want to ask you whether, in section 2, a single person, we will say, a man like Julius Barnes, who, as we all know, is probably the largest exporter of grain in the world, would come under this definition. I confess that I myself do not believe he would. You have the definition of the word "person" and it says:

That the word "person" shall be construed to import the plural or singular, and shall include individuals, associations, partnerships, corporations, and trusts.

Then, down in line 14 you use the word "persons," but you have not defined "persons," but you say that a "board of trade shall be held to include and mean any exchange or association, whether incorporated or unincorporated, of persons"—

So I maintain, and I may be in error about this, that your definition of "board of trade" would not cover the activities, we will say, of a man like Julius Barnes, who might build up a great organization of his own and carry on and assume all of the functions of a board of trade.

Senator McNARY. I can not agree with you at all, Mr. Lyman. I will have to disagree with you on that. The word "person" unquestionably, as stated here, is to be construed to import either the plural or singular and shall include individuals. There is a rule of law that where the singular is applied to the plural it means either or both. We say here that—

The words "board of trade" shall be held to include and mean any exchange or association, whether incorporated or unincorporated, of persons who shall be engaged in the business——

Mr. LYMAN. Pardon me, Senator. That is the definition of the word "person."

Senator McNARY. Yes.

Mr. LYMAN. When the word "person" is used, does it include "person" or "persons?"

Senator McNARY. And shall include individuals, it says.

Mr. LYMAN. Yes; but then down in lines 13 and 14 you do not use the word "person," you use the word "persons," which has not been defined by itself. I studied that paragraph last night and, as you

know, if people want to nullify an act, of course they get to hair splitting. That was one reason why I wanted to point it out.

Senator McNary. That is all right. You can change that in line 14 and use the singular, if you wanted to.

Mr. Lyman. Now, in the Clayton Act they have this definition:

The word "person" or "persons" wherever used in this act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

Senator McNary. Yes.

Mr. Lyman. I will pass from that, leaving that with you to consider it for what it is worth.

Now, on page 2, as the bill now stands, I can not see why you want the expression "exchange or similar institution or place of business." That is in lines 21 and 22. I can not see why you want that expression there, for the reason that over on page 1 you have defined what a board of trade is.

Senator McNary. Well, do you think that all after the word "delivery" should come out on line 21?

Mr. Lyman. No; I would leave in "board of trade" there—"made at, on or in a board of trade," for the reason that you have defined boards of trade on page 1.

Senator McNary. It should be broad enough to include bucket shops?

Mr. Lyman. I think so.

Senator McNary. It is simply tautological; it is harmless.

Mr. Lyman. I was afraid a new meaning might be given to it in that connection.

On page 4, lines 5, 6, and 7, I personally would think it very desirable if these records should be open to the public; that is to say, a representative of a farmers' organization of a sufficiently large membership. I would suggest that every organization that has 20,000 members should have the right to see these records.

Senator McNary. Well, you would not go into it on the proposition that every man doing business as an association should make his records public of those transactions which lie pretty close to the heart of the institution?

Mr. Lyman. I would. With the cooperative associations, I have always fought for publicity. In the filing of accounts I think we have suffered by certain fly-by-night, so-called cooperative organizations. I believe every cooperative should file its articles of incorporation, and it should be considered as in the public interest. I would feel the same way about it with reference to this publicity, both in this bill and in the Capper bill, that the records should be published. I do not think that any farmer should have the right to go in, but when any reliable organization of sufficient numerical strength wants to check up on the activities of these business concerns I would personally urge that it have the right to do so.

Senator McNary. That would give an advantage to a big concern and deny the little fellow the same rights.

Mr. Lyman. Yes. Of course, if people belonged to an organization, they would get that advantage through their organization.

I will pass on from that.

Now, in section (d), on page 4, I want to ask you whether it provides that the Secretary of Agriculture shall determine what constitutes a reasonable limitation. If it does, I can not see it myself after studying it pretty carefully It seems to me that the question of what is a reasonable limitation would be left with the courts, or, at least, the grain interests might so construe it.

Senator CAPPER. Well, if the governing board provides for a reasonable limitation, what difference does it make whether the Secretary of Agriculture shall say that or not?

Mr. LYMAN. Well, who would say that it was a reasonable limitation?

Senator CAPPER. Of course, if they do not do that, then the Secretary of Agriculture has the authority here to call this governing board before him and see what they have done.

Mr. LYMAN. I see, but my point is that they would hold that they had fixed a reasonable limitation.

Senator CAPPER. Now, suppose the Secretary of Agriculture wanted to fix a reasonable limitation under that language. He could refuse to give a proper certificate to this organization, so that it might escape the taxation feature, unless they put in the limitation that he wanted. It seems to me that the effect of that language is that while it must be done by the board, it in reality gives the Secretary of Agriculture the power to fix it, because if they do not fix it at what he wants he can refuse to give them a certificate.

Senator MCNARY. Yes; I think that is clearly the view. We have to read subdivision (d) with the first paragraph of section 5.

Mr. WELLS. Yes.

Senator MCNARY. Now, the first thing they must do is to qualify, and this provision says, "When the governing board thereof provides for the prevention of manipulation of prices by the dealers or operators upon such board, including a reasonable limitation upon the total quantity of grain," and so forth.

The CHAIRMAN. Yes.

Senator MCNARY. Then, they must come to the Secretary of Agriculture, who is authorized to designate these people, provided they have lived up to these several specifications as contract markets.

The CHAIRMAN. And if he does not so designate them, then they can not do business.

Senator MCNARY. No.

The CHAIRMAN. Because they are taxed out of business. Now, he can refuse to designate them unless they put in a limitation that suits him.

Mr. LYMAN. I think probably the power is implied there, but my thought was that it might be made just a little bit plainer.

Senator CAPPER. If they do not restrict this manipulation as, in his judgment, he thinks is reasonable, he has the power to put them out of business. After all it is up to him, it seems to me, to pass upon it.

The CHAIRMAN. I think so.

Mr. LYMAN. My thought was this: You might change the wording by stating something like this, "including a limitation upon the total quantity of grain," and so forth, "as may be deemed reasonable by the Secretary of Agriculture." Then there would not be any question about the meaning of the provision.

Now, I will pass on to section [illegible]. I want to raise the question as to whether it is advisable that the executive officer of a cooperative association shall be a member of a board of trade. In your own experience you probably know that the executive officers have various dealings in connection with these cooperative associations. The Morris McDonald, for instance. He would not be on the Kansas Board of Trade probably; probably he would not have the time he would necessarily have to become an accredited representative, and it seems to me that you should single out executive officers and provide an accredited representative there.

Now, as to that same section, I am very much in favor of putting in a stipulation or changing it. It may be that the thought suggested in this amendment proposed this morning would cover what I have in mind, but I feel that the amendment offered by Congressman Hersman on the floor of the House the day the Tincher bill was passed or something of that sort ought to be inserted at this time so that there would not be any question as to all of the cooperative associations becoming members of the grain exchanges and losing the right to operate their dividends.

The amendment offered on the floor of the House when the Tincher bill was passed by Mr. Hersman is as follows:

Provided, That nothing in this section shall be construed to require the [illegible] cooperative associations to permit the division of its profits according to its own by-laws.

I would very strongly urge the insertion of that in paragraph [illegible] of section 5 of the bill.

The CHAIRMAN. Let me ask you this, Mr. Lyman. Taking the illustration of the farmers' unions, do they distribute their patronage dividends to members only or to outsiders?

Mr. LYMAN. Mr. Chairman, the Farmers' Union does business with its own folks. It is not like some of the other organizations. There are some of those farmers' cooperative grain dealers' companies, and I think some equities, possibly, that buy grain from the surrounding territory. They can not force all of the farmers to join, and they assume the function of a regular grain dealer, and sometimes they are the only one in a town. They would like to have the other farmers in the county, or in the surrounding section to become members, but they can not force them to become members.

Now, I tried to point out the other day that some of the State cooperative laws require that the cooperative associations shall return a patronage dividend to the nonmember, but it is a one-half division; that is it is one-half the rate that they give their own members, and the laws further provide that the association may pay this one-half dividend in one or more shares of stock, or apply it toward the payment of one or more shares of stock. So you see, when that is followed as it is in Wisconsin, for instance, my own State, where I farm, it is really an open arrangement, and there is no chance of taking any of those profits and applying them to the dividends of the regular members.

The CHAIRMAN. In that case, he becomes a member himself?

Mr. LYMAN. In that case he becomes a member himself; yes, sir. He automatically becomes a member.

The CHAIRMAN. Now, are there any States that require these organizations, where they divide among their stockholders their profit dividends, to divide with the nonmembers just the same?

Mr. LYMAN. That is done in certain cases. I know of one or two cases, I think, where they do treat the nonmember on the same basis, but I submit that that is not the way to build up a farmers' organization. I do not think it is right that they should give all of the benefits to the nonmembers that they give to their own members; but I do think that our Wisconsin law, which provides that one-half patronage dividends be given to a nonmember, and that the same be applied to the payment for one or more shares of stock, is eminently fair.

I think that quite a number of the States have a similar provision, for the reason that the Wisconsin law, passed in 1911, has been used quite largely as a model. It was one of the first State cooperative laws.

The CHAIRMAN. Well, they do not do that, I suppose, unless they have to, under the local law.

Mr. LYMAN. Possibly so.

Senator CAPPER. Does that law require that they shall do it, or that they may, do you remember?

Mr. LYMAN. I think I have that right here. Here is the way it reads. This was taken out of the old law which is up for amendment now in the legislature. I do not know whether they have passed it or not.

The CHAIRMAN. Of Wisconsin?

Mr. LYMAN. Of Wisconsin.

"* * * and one-half of such uniform dividend to nonshareholders on the amount of their purchases, which may be credited to the amount of such nonshareholders on account of capital stock of the association,"

and so forth.

Senator CAPPER. I think it is optional with the cooperative association.

The CHAIRMAN. Of course, that is very important and the very thing we are considering here.

Mr. LYMAN. I am not positive, Senator, but I think it has been held by the attorney general of Wisconsin that they have either to give the one-half patronage dividend or let them come in as members when they have done business sufficient to pay for one or more shares of stock. The law specifically requires the payment of the one-half rate dividend, but the matter of payment appears to be optional.

The CHAIRMAN. We want to avoid, if we can, of course, any law that may possibly conflict with State laws. Now, we have some States where the laws provide that they have to give patronage dividends to some members. Very likely there are a number of other States that prohibit that, and in that event we would be between the devil and the deep blue sea.

Mr. LYMAN. Here is the Oregon law on this feature. It is a little bit different. It is section 6971, and I will read it:

When an association is composed of consumers organized to supply their need for commodities for (of) any kind the directors shall make the final apportionment of earnings in proportion to the amounts purchased from or through the association, but not upon purchases which the association makes from others.

Now, there, you see, they are not allowed under the law, but this section apparently refers to those which are organized.

The CHAIRMAN. Yes.

Mr. LYMAN. To apply the earnings that the association has made. They are handling the supplies of nonmembers. I think probably there is another provision in there. I got it just before I came here, and I have not had time to go through it carefully.

Senator LADD. You have not the new North Dakota law, have you?

Mr. LYMAN. No; I have not got that, Senator.

Senator KENDRICK. In the admittance of these cooperative agencies into the exchanges, the thing that is desired, as I understand it, is to place them on an equal basis with the grain commission men; is not that the idea?

Mr. LYMAN. Yes, sir.

Senator KENDRICK. Now, do you not think that if you allowed this distribution of profits to nonmembers of these organizations they would be having an advantage which the commission man does not enjoy?

Mr. LYMAN. I think that is true.

Senator KENDRICK. As a matter of fact, he is denied the right to go out and pay anything for business at all, and to distribute a part of the profits back to men who are not members is certainly one way of paying for business.

Mr. LYMAN. That is one way to look at it, and I can sympathize with the position that they take. On the other hand, I think you will agree that the cooperative plan is a fair plan, to return everything possible to the growers.

Senator KENDRICK. Yes.

Mr. LYMAN. To the farmers.

Senator KENDRICK. That is true, but the man who does not come in and become a member of it has not, in the first place, earned the right to participate.

Mr. LYMAN. I think you are absolutely right about that.

I would like to see that amendment which was read by the preceding witness. Have you got that, Senator?

Senator CAPPER. Yes.

Mr. LYMAN. I just want to glance at that a moment.

Taking up this amendment which was offered this morning, relative to the so-called rebating of commissions, I would want this committee to feel sure that it is not worded in such a way as to rule off the cooperative association which does not return a patronage dividend to nonmembers, but which, at the same time, may have to handle some grain of nonmembers.

You get that point, do you not, Mr. Chairman?

The CHAIRMAN. Well, that does it, I think. Of course, this is true. There are many instances where the cooperative elevator is the only elevator that there is in the community.

Mr. LYMAN. Yes.

The CHAIRMAN. If they did not buy the farmer's grain he could not sell it. There is not anything in that that would prohibit them from buying any grain they wanted to, but when it came to dividing their profits they would not give the nonmember anything.

Mr. LYMAN. In lines 5 and 6, the amendment reads: "Substantially all of whose business consists of handling grain produced by its members."

The CHAIRMAN. Yes.

Mr. LYMAN. Now, it is conceivable that when the cooperative concern starts it may have only an inconsiderable number of members, and it has to grow up, and it has to show that it is a useful organization to attract membership.

The CHAIRMAN. That is exactly what the commission men have to do.

Mr. LYMAN. Absolutely. You heard the statement this morning by Mr. Wells, that the cooperatives were growing very, very fast—out of all proportion, I think, to the other grain elevators, the proprietor elevators. Now, I would take it, Mr. Chairman, that would rule out a cooperative association of the character which I mentioned, which might be doing considerable business with nonmembers, not because they wanted to, but because it was getting started and getting under way.

The CHAIRMAN. Well, I see the point you make, Mr. Lyman, but there are instances where, as I said, they must buy, and where they are practically compelled to buy, I think, of nonmembers. Of course, they can not compel anybody to join, and in a case where there was not business enough for two elevators, the fellow who was not a member of the local organization would not have a market; but on these exchanges I do not have any idea it is contemplated that every one of these little buying agencies is going to have a man of its own there. Take, for instance, the Farmers' Union now——

Mr. LYMAN. Yes, sir.

The CHAIRMAN. That organization has hundreds of elevators owned by corporations composed of men who are members of the Farmers' Union.

Mr. LYMAN. They have to be members of the Farmers' Union.

The CHAIRMAN. Yes.

Mr. LYMAN. Before they can do business.

The CHAIRMAN. Now, each one of those elevators would not have a man on the board of trade?

Mr. LYMAN. No; not at all.

The CHAIRMAN. But the State organization, or perhaps the national organization, would have a man, and he would be dealt with by those people. Now, in the aggregate, while there might be instances where local conditions make it necessary to buy grain of other people, in the aggregate the great bulk of the grain that they would handle would come through their members?

Mr. LYMAN. I think that is true of the Farmers' Union.

Now, you are familiar with another organization, the National Farmers' and Grain Dealers' Association. Their grain-selling companies are in Kansas, Nebraska, Minnesota, etc. They are cooperative for the most part. They are cooperative so far as the members go, and they are reorganizing on a cooperative basis. If they happen to be organized under a joint stock plan at the beginning, they have always been cooperative in spirit. A good many of them at the present time have become the regular dealer of the town. They would like to see all the farmers join and help build up the capital

[illegible]

FUTURE TRADING IN GRAIN.

THURSDAY, JUNE 9, 1921.

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE AND FORESTRY,
Washington, D. C.

The committee was called to order by the chairman (Senator George W. Norris) at 10.30 a. m.

Present: Senators McNary, Capper, Keyes, Gooding, Kendrick, Harrison, and Smith.

The CHAIRMAN. I understand that Mr. Tator wants to be heard further. I thought we could close these hearings to-day. The Secretary of Agriculture was to be here, and I presume will be, but Mr. Tator, who has already been on the stand, on the long-distance telephone has said that he will be here to-morrow morning and that he wants to be heard further. I suppose probably we had better, when we adjourn to-day, adjourn until to-morrow in order to hear him. I do not know what he has to present to the committee. So we will have the understanding, then, unless there is objection, that when we adjourn to-day—and we will have to adjourn at 12 o'clock, because the packer bill will be up in the Senate to-day—it will be until 10.30 to-morrow morning.

I understood that one or two representatives of various farm organizations wanted to state in the record the position that their organizations have taken with respect to this bill. One of them has already appeared. If there are any others here that want to be heard briefly this morning, we can hear them while we are waiting for the Secretary to arrive.

Mr. SILVER. We are very much interested in the purposes to be accomplished by this bill, and I want to say that we are very anxious to have this matter closed up at as early a date as possible. I understand that Mr. Thorne has presented an argument here.

The CHAIRMAN. Mr. Thorne's argument was presented yesterday.

Mr. SILVER. That is all I have to say this morning.

The CHAIRMAN. Are there any others here? I see the Secretary has arrived.

Mr. Secretary, we are glad to hear you this morning.

STATEMENT OF HON. HENRY WALLACE, SECRETARY OF AGRICULTURE.

The CHAIRMAN. Mr. Secretary, you know the bill that we have before us?

Mr. WALLACE. Yes. I have brought a copy of it with me. It is the same bill that we had in the House, with some changes in it that were added?

The CHAIRMAN. The bill before us is the House bill as it passed the House.

Mr. WALLACE. Yes. Now, what do you want me to discuss?

The CHAIRMAN. That we leave to you, Mr. Secretary. I think we would like to have you give us an idea, first, of your views of the general subject, and then your suggestions, if you have any, of changes that ought to be made in the way of amendment.

Mr. WALLACE. Well, as to the general features of this legislation, I think it is desirable that there should be some legislation. There has been complaint against the boards of trade for years and years. We get these complaints especially in periods of depression. There always is a feeling on the part of some people that low prices are caused by undue manipulations on the boards of trade and grain exchanges, and of course I subscribe to that view; but I think everyone connected with them, even those that are operating on them right along, admit that a number of evils have grown up, that they do offer an opportunity for unfair manipulations that at times depress the price of grain in a manner that is unwarranted, and at other times bring high prices.

I think nothing should be done that will interfere with the legitimate operation of these grain exchanges. I think the grain exchange offers the best system of fixing grain prices that we have ever discovered up to the present time; that there is a place where men can come together, where men can make a study of grain conditions, and can bargain together. There is speculation, it is true, but it is a place where men who buy grain either for shipment, in the case of the country elevators or in the case of the millers for manufacturing, are able to in a way insure themselves against wide fluctuations and loss through their policy of hedging.

Until we find some better method of making the prices, I think nothing should be done that would interfere with the legitimate operation of these exchanges. Possibly some time in the future we may find a better way. I don't know.

As to this bill, I was before the House committee and suggested some changes which have been made in the bill, as I see. I talked with some of the grain-exchange men who are opposed to all of this legislation, and who very frankly said so, and I appreciate their point of view, but also I think most of them feel that there will be some legislation, consequently we talked to this particular bill with a view of considering some changes which they thought ought to be made. Have those changes been taken up here?

Senator KEYES. Yes.

Mr. WALLACE. One change which occurred to me——

The CHAIRMAN. Unless you have the suggested changes before you, Mr. Secretary, will you give us your bill where they are included?

Mr. WALLACE. No; I haven't them.

Senator MCNARY. Mr. F. D. Wells appeared here yesterday and submitted copies of the bill which contained changes which had been suggested by yourself and the secretaries of the different exchanges, which are contained in a bill which we have here.

Senator HARRISON. Did they agree that those changes would eliminate their opposition to the bill?

Senator MCNARY. I think they said frankly that they were opposed to it even with those amendments in.

Mr. WALLACE. Their attitude is that there should be no legislation.

The CHAIRMAN. Yes.

Senator MCNARY. Section 2 on the first page is the first change suggested.

The CHAIRMAN. Mr. Wells told us in substance that these amendments were prepared under your supervision.

Mr. WALLACE. Probably unintentionally he gave you a wrong impression.

The CHAIRMAN. I don't want to misquote him, but that is the impression I got.

Senator KEYES. I think he said with the assistance of the solicitor.

Mr. WALLACE. I will tell you what happened there, and I am quite sure Mr. Wells would not intentionally make an incorrect statement about it.

They came down to talk over the matter with me, and to point out some places in which they thought the bill should be changed. I suggested to them that they draw up those changes which they thought ought to be made, in writing, which they did, and then they went over it with one or two of our people in the Bureau of Markets who have given a special study to this whole matter, and I think also with the Solicitor, and after that conference with our people they submitted a report to me. Most of the changes they seemed to think would be all right. I have their memorandum to me about that, if you are interested in it. I have not checked them myself.

The main point of difference, as I remember it, was in the matter of permitting cooperative associations of producers to have membership on the boards of trade.

Senator HARRISON. Would there be any objection, Mr. Chairman, for the Secretary to have this memorandum incorporated in the record?

The CHAIRMAN. It will be appropriate for the Secretary, if he wants to, of course, as part of his testimony, to submit that memorandum.

Senator GOODING. Would it not be well for the Secretary to take the bill, as we did yesterday, and go through the amendments and see if he has any further suggestions to make? It might save some time.

Senator CAPPER. I have here the bill as they submitted it, which I will hand to the Secretary.

Mr. WALLACE. I think I can run that over quite rapidly here, with this memorandum.

That first change is all right.

Senator HARRISON. I have not one of those bills.

The CHAIRMAN. There were only five or six copies left, Senator Harrison, and those here got a copy. I have not but one copy myself.

Senator HARRISON. What was the first change?

Mr. WALLACE. On line 11, immediately following the word "sorghum," the suggested change was the insertion of the words "the term 'future delivery' as used herein shall not be held to include any sale of cash grain for deferred shipment."

There does not seem to be any objection to that, because the purpose of the bill is to apply to future trading on grain exchanges and not to apply to cash shipments.

On page 3, line 11, they feel that as the bill originally read it might impose unnecessary burdens on them in the way of keeping memoranda and making reports and, of course, those who administer the bill would not have any such intention. We would try to administer it in a way to cause the least bother in the way of keeping reports and records. All that is necessary there is that all records should be available to those charged with the administration of the bill in case conditions arose which might make a thorough investigation necessary. It is not likely that in the ordinary course of business those records would need to be kept, but there might come a time when they would need to be kept. Then we should have full authority.

Senator KENDRICK. You would argue from that, Mr. Secretary, if I may interrupt you, that their ordinary records would suffice?

Mr. WALLACE. Well, of course, every concern which deals on a board of trade must keep very complete records for its own purposes. This bill provides that each board member shall keep such memoranda for a period of three years from the date thereof, or for a longer period if the Secretary of Agriculture shall direct, which record shall at all times be open to the inspection of any representatives of the United States Department of Agriculture and the United States Department of Justice.

I think probably that is all right.

On line 22 of the same page, the insertion of the words "and having adequate storage facilities and recognized official weighing and inspection service." I see no objection to inserting that, if they think it should be inserted. It is assumed that at every market where there is a grain exchange they will have those facilities.

In the suggested change in section 5, if you wish it for your record, I will read you the comment on that by our people who went into it very thoroughly.

The CHAIRMAN. You have not finished section (b) as yet, Mr. Secretary.

Mr. WALLACE. This is paragraph (b) of the section.

They substitute quite an extensive memorandum for that and, as I say, if you wish I will read our comment on that.

This suggestion proposes that section 5, paragraph (b), shall be stricken out entirely. in accordance with the tentative understanding reached in the talk with Mr. Wells, It is believed that this will be satisfactory if the subdivision be retained with substantially the following changes:

On page 3, in line 24, after the word "filing" insert a comma and the words "either by the board or by its members," and strike out the words "a record and." Also on page 4, in line 4, in the same subdivision, strike out the words "which record" and substitute therefore the words "the memorandum mentioned in section 4."

In these circumstances the language beginning in line 7, page 4, after the word "justice" seems to be superfluous, except the portion of the last two lines in regard to the manner in which the contract is fulfilled, discharged, or terminated. If all this language remains in the subdivision no other change need be made, but if it is stricken out there should be inserted in line 4, after the word "delivery" the words "including the manner in which such transactions are fulfilled, discharged, or terminated."

With these changes all duplication will be eliminated, and the situation will be that a memorandum in writing must be kept of each transaction entered into pursuant to section 4, subdivision (b), and a report must be made either by the board of trade or each of its members showing all of their transactions in detail.

That comment, of course, is mainly to clear up other matter in case this change should be made.

Senator GOODING. How does this section then read?

Mr. WALLACE. That is assuming that you use this new section, then this comment applies?

The CHAIRMAN. In other words, if the changes suggested are made, it will stand here as it appears here in typewriting pasted into the bill?

Mr. WALLACE. Yes.

Senator GOODING. With the exception——

Mr. WALLACE. With these changes.

Senator GOODING. You still suggest these changes?

Mr. WALLACE. They will be necessary in order to avoid confusion.

Senator GOODING. Yes.

Mr. WALLACE. I will leave this memorandum here, if you wish. It might be helpful in eliminating confusion.

The CHAIRMAN. As I understand it, paragraph (b), section 5, that is pasted in, if agreed to as suggested there by the typewritten matter, would not be a complete statement of it, but it would be satisfactory?

Mr. WALLACE. The point is that if you accept this paragraph as pasted on page 4, then the changes which I have suggested should be made at other places in order to harmonize the whole thing.

The CHAIRMAN. Yes. Well, that has been done later on, has it not? What I want to know is, is this typewritten paragraph (b) that is pasted in satisfactory?

Mr. WALLACE. Yes. That is if it is the same one that they considered when we had this before us.

Senator MCNARY. I think the Secretary said to Senator Gooding that this typewritten substitute for (b) was satisfactory with the changes which he suggested this morning.

The CHAIRMAN. He means these changes which are to come later on.

Mr. WALLACE. These changes which I have just read here——

Senator MCNARY. Are they changes that apply to section (b)?

Mr. WALLACE. Not to apply to the typewritten part, no; but to other changes which are made necessary by this.

Senator GOODING. Those have been provided for?

The CHAIRMAN. I think when we go on further we will find they are provided for.

Mr. WALLACE. Now, the change in (d). There seems to be no objection to that change.

Now, (e). I suggest that that might be changed, that whole paragraph, if you choose to do so, by approaching it from the other angle. For example, if instead of the paragraph as you have it there you make it read—

When the governing board thereof does not deny membership thereon and all privileges to any duly authorized executive officer of any lawfully formed and conducted cooperative association of producers having adequate financial responsibility.

In other words, instead of requiring them to admit them, that they do not deny membership. Of course the objection to admitting these organizations is that they distribute profits in the way of patronage dividends. I doubt very much whether any cooperative association of producers would accumulate profits through its membership on a board of trade. That is, it is not the same sort of business that an ordinary commission firm does on the board of trade. It would not be there, for example, to handle accounts for its members

and buy and sell in a speculative way for its members at all, but it would be there to transact its business in the larger way, and I doubt very much whether it would have profit or whether it would come under the objections which they make to it.

Senator KENDRICK. Would it not be necessary, Mr. Secretary, for the cooperative organization to establish the same rate of charges in the way of commissions to its own members that other commission houses charge, and then to divide any earnings afterwards, the same as commission firms provide for their members?

Mr. WALLACE. I don't know just what sort of business a cooperative firm would do there. I do not suppose a cooperative firm would open up a commission business and carry it on in the same manner that a commission firm does.

Senator GOODING. They merely sell.

Mr. WALLACE. They are on there for the purpose of handling their own grain in a large way and not for handling for individual members at all as I see it.

Senator KENDRICK. But even so, it would be necessary for them to have a uniform rate, because they could not, certainly, charge a man for selling 1,000 bushels of grain the same price that they would charge for selling 50,000 bushels.

Mr. WALLACE. No; assuming they did that kind of business.

Senator MCNARY. Mr. Secretary, do you offer that as a substitute for the whole subdivision (e)?

Mr. WALLACE. It seems to me this is better; yes. That is a matter for you to determine. It just seemed to me this was the better way to approach that matter.

Senator MCNARY. The provision which was submitted yesterday, which was said to have your approval, goes upon the theory that the cooperative organizations should be entitled to membership on the exchange only so long as the majority of their business was done with members of the association; that any association whose business was done mainly with outsiders was not entitled to membership; in other words, if a patronage profit-sharing cooperative organization does a larger business with nonmembers, or with others than those who are members of the assocaition, then they are not entitled to representation on the exchange. That is the construction I place on the suggestion that was submitted yesterday.

Mr. WALLACE. Here is the difficulty in confining it to its members: A group, for example, consisting of those sitting around this table here, we will say, are farmers living in the same community. We organize a cooperative association among ourselves, and, like other cooperative associations, we provide for a distribution of our earnings to members in one form or another. We go on and do business for four years, and after two years Senator Kendrick, a member of the association, for reasons satisfactory to himself, moves to town and rents his farm. Now, in a sense he is no longer a producer, although he is still a member of the cooperative association. Possibly the next year Senator Capper or one of the other members may do the same thing, so that while originally the association was composed wholly of producers, gradually a certain number of its members retire from active production, although still members of the association. Now, that question might be raised if you confine the co-

operative association to business strictly for its producers. That objection might be raised in a technical way and make trouble.

Senator KENDRICK. I think that would not be necessary if we confine it to producers in the strict interpretation of it, but I do believe, in fairness to all interests, that there should be a limitation or restriction on the distribution of the profits, and such limitation or restriction would confine that distribution to the members of the organization. In other words, you are liable, by leaving the situation so that these profits might be distributed back to anyone who did business with the firm, to place upon it a premium for business, or to rebate, in other words; that is to say, to put into actual practice a system of returning part of the profits would be in effect almost like a rebating system, which has proved rather unsatisfactory and in fact rather pernicious where it has been employed in other places.

I believe, in other words, that every man who is a member of the association should participate in the profits; that they should be made to divide the profits among their own members; but I do not believe it should be unrestricted.

Senator MCNARY. That situation is met by this proviso suggested yesterday by Mr. Wells, that when the membership of the association is much less than the patrons of the business they should not be recognized. That disposes of the whole proposition.

Senator SMITH. "*Provided*, That no rule of a contract market against rebating commissions shall apply to the distribution to its bona fide members of patronage profits by any such cooperative association substantially all of whose business consists of handling grain produced by its members."

Senator KENDRICK. I think that the latter part of that might be stricken out.

The CHAIRMAN. It seems that way to me, Senator. When we say "distribution to its bona fide members of patronage profits" we have covered that ground.

Senator KENDRICK. Yes. We might pass on from that.

The CHAIRMAN. I wanted to ask the Secretary a question.

This question was raised, Mr. Secretary: This provides, "When the governing board thereof admits to membership thereof and all privileges thereon on such boards of trade any duly authorized executive officer of any lawfully formed, etc., cooperative associations," etc. This question arises. Suppose such an organization wanted to have on the board of trade as its representative somebody who was not an executive officer. Why should we compel them to select an executive officer? It may be that the executive officer's time is all taken up in organization and looking after other duties. Why should we limit them? Why not let them select anybody they want to?

Mr. WALLACE. I assume that that was simply the way of carrying the membership; that there must be some one whose name would stand on the roll. That would be my assumption.

The CHAIRMAN. I don't see myself any reason why we should compel them to send an executive officer there to represent them.

Mr. WALLACE. Well, he would not necessarily represent them in his actual dealings there, but, as I understand it, the membership would be carried in the name of some one.

Senator SMITH. Who is an executive officer?

Mr. WALLACE. Yes; some one who is an executive off-

The CHAIRMAN. Would he, under that general designation, have authority to have some other member act for him?

Senator SMITH. They could extend that so that the association would be recognized as a unit, and that unit be represented by some executive officer on the list of the members, but all the transactions would not, of course, be done, except as they saw fit, by the executive officer himself, but this executive officer would be responsible.

The CHAIRMAN. I doubt very much, if you were president of an association, Senator, and you were designated, and I was a member of it, and your time was all taken up in other work, that I could go there in your place and act, under this proposed legislation.

Senator CAPPER. The executive officer might not be qualified for that line of work.

The CHAIRMAN. They would select a man who was particularly qualified for that kind of business. An executive officer might not be such a man. What is the difference, if they have a membership? Why not let them select their own representative, of course giving him full authority to represent that cooperative association.

Senator GOODING. I see no objection to that. Either the executive officer or someone delegated by him to act.

The CHAIRMAN. I would say any duly authorized member of such association.

Senator GOODING. Yes.

Senator SMITH. A technical application of that might cause some trouble, but I think what they were driving at was that the officer should be recognized as a member or some man clothed with authority; but I do not know but what the language you suggest probably would be the better, to say that they shall be represented by some duly authorized by the association of which he is a member.

The CHAIRMAN. Now, Mr. Secretary, I want to ask you a question that I think is the meat of this subdivision.

What is your opinion as to the advisability of including in the bill some provision that permits these cooperative associations to have membership on the board of trade?

Mr. WALLACE. I think that should be done.

The CHAIRMAN. You think the bill should be so framed that they should be admitted?

Mr. WALLACE. Well, I think the fact that they are cooperative associations should not bar them from membership.

The CHAIRMAN. And the fact that they distribute their profits in a patronage way should not disqualify them?

Mr. WALLACE. I think there is no merit in that argument.

Senator GOODING. They have losses as well as profits?

The CHAIRMAN. Yes.

Mr. WALLACE. Mr. Morrill, who has studied this matter, who went over this with Mr. Wells, very carefully, suggested this as a substitute for what Mr. Wells has suggested.

Senator SMITH. For this paragraph?

Mr. WALLACE. Yes, for it.

When the governing board thereof admits to membership therein and all privileges thereon such board of trade any duly authorized executive officer or any incorporated and conducted cooperative association of producers having adequate financial responsibility and under the same terms and conditions as other applicants pre-

vided that no rule, regulation, or requirement of the board shall prohibit such association from distributing its earnings among its members on a patronage dividend basis.

The CHAIRMAN. That seems to me to cover it.

Senator KENDRICK. That is all right.

Senator CAPPER. It still leaves in there the "duly authorized executive."

The CHAIRMAN. We might change that.

Mr. WALLACE. I would say that is only a practical way of getting membership. I see no objection to that. It is simply a practical way of getting your membership.

Senator CAPPER. We should say "any duly authorized officer."

Mr. WALLACE. If you want to approach it in that way, I think that suggestion meets the situation. The only thought I had was whether it would not be better to say they must not deny membership rather than admit to membership.

The CHAIRMAN. All right.

Paragraph (f) of the new paragraph on page 5, of the typewritten change, will be necessary, will it not, on account of the changes made prior to that?

When the governing board shall provide for making effective the final orders or decisions entered pursuant to the provisions of paragraph (b), section 6 of this act.

That is a later section. That is the one that provides a remedy, to go after the member instead of the association?

Mr. WALLACE. Yes.

The CHAIRMAN. So if we put that other change in this new paragraph (f) would be necessary?

Mr. WALLACE. Yes.

These changes in section 6, so far as making a commission instead of the Secretary of Agriculture alone responsible for imposing penalties, I have no objection to at all, so far as I am concerned.

Senator HARRISON. That is the suggestion of the boards of trade?

Mr. WALLACE. Yes.

The CHAIRMAN. That has been suggested by a good many witnesses, that they would rather have a commission than confine the authority to one man.

Mr. WALLACE. Well, I think that is all right. I am certainly not looking for any undue authority. I will be glad to divide responsibility in that.

The CHAIRMAN. Of course that change makes necessary several of the other changes.

Senator GOODING. I think that is all right. I think that is very good.

The CHAIRMAN. I don't see any objection to that.

Senator GOODING. None at all.

The CHAIRMAN. Then we come to page 7, Mr. Secretary.

Mr. WALLACE. No; we have got another change there in line 19, "using reasonable diligence in."

The CHAIRMAN. Oh, yes.

Senator SMITH. He explained here yesterday that he did not object to a commission applying discipline to any member who might be guilty of an infraction of the law in trying to corner the market, but the board could not always be responsible for the action of its members.

Mr. WALLACE. Well, there is some merit in that.

The CHAIRMAN. Now, Mr. Secretary, go over to page 7, where a new paragraph (b) is added in section 6.

Mr. WALLACE. Well, the purpose of that, I think, is not objectionable.

Senator KENDRICK. In adopting that, though, would it not be necessary to substitute the commission for the Secretary of Agriculture?

Mr. WALLACE. You would need to make a number of changes.

The CHAIRMAN. This is put in on the theory that that change is made. They precede this.

Mr. WALLACE. I have a memorandum from Mr. Morrill which I will leave with you. He does not raise any objection to it, but makes some suggestions which I think you should consider.

Senator GOODING. I think it would be well, Mr. Chairman, if we could have Mr. Morrill here.

Mr. WALLACE. He is not in the city.

Senator HARRISON. What do you think of the proposition to place the administration of this bill under the Federal Trade Commission instead of the Secretary of Agriculture?

Mr. WALLACE. I do not know. That change was made by some of the people who are interested in the grain exchanges. They thought they would feel more comfortable about it. I suppose the reason for it is that the Attorney General should have the duty of enforcing the law. The thought, I suppose, in putting him on as a member of the board, is that he would be thoroughly familiar with all the laws.

Senator KENDRICK. It occurred to me while we were talking here that Mr. Wells thought that he would understand the law better than the Secretary of Agriculture.

Mr. WALLACE. There could be no argument on that. It would be desirable, of course, to have the law enforcing arm of the Government thoroughly in touch with everything of that sort, if we have to go to law.

Senator GOODING. I can see the advantage of a body, or a commission, enforcing this law, rather than one man, who might be arbitrary in its enforcement, and this would be a balance wheel or safety valve. I don't think we have ever had such a man as Secretary of Agriculture. Those things could happen, of course, but I doubt very much if they ever would.

Mr. WALLACE. I think it quite all right to have the board.

Senator GOODING. Yes; I think so.

Mr. WALLACE. I think there are no other changes there on which you need any opinion from me.

Senator SMITH. Mr. Secretary, it just occurs to me now, and I am rather thinking it out now—it is not a mature judgment—what about having the Attorney General on a commission and participating in the findings of that commission, in view of the fact that if any appeal from that judgment made to a court is had, the Attorney General would have the duty of defending the findings of that commission?

Mr. WALLACE. Well, that is a matter in which your opinion is worth more than mine.

Senator GOODING. Do you raise a question of whether that would be wise?

Senator SMITH. I do raise the question, and we can confer about that later; but it did occur to me that here you create a commission to deal with this, and you put on that commission the Attorney General, who is charged with the duty of defending the findings of that commission in the court of justice.

The CHAIRMAN. The Attorney General, if he got into a law suit in the court would be defending his own judgment. He never ought to go into court anywhere unless he is satisfied he is right. He is defending his own judgment in any case.

Senator SMITH. But when the case is submitted you are trying him.

The CHAIRMAN. I don't think that would influence the court.

Senator CAPPER. I was going to ask the secretary about this change suggested by two or three of the witnesses in section 4.

The CHAIRMAN. Senator Capper, had we not better let the secretary complete these other suggested amendments first, if he has not already done so?

Mr. WALLACE. I think there is nothing that I have to add, Senator.

The CHAIRMAN. Yes. All right, Senator Capper.

Senator CAPPER. It is suggested that the words in line 21, page 2, "made at, on, or in any exchange, board of trade, or similar institution or place of business" be eliminated. Do you think that change should be made?

Senator SMITH. What is the reason for cutting that out? I will read paragraph 2:

That in addition to the taxes now imposed by law there is hereby levied a tax of 20 cents a bushel on every bushel involved therein on each contract of sale of grain for future delivery made at, on or in any exchange, board of trade, or similar institution or place of business.

Now, if you strike that out it would read—

that in addition to the taxes now imposed by law there is hereby levied a tax of 20 cents a bushel on every bushel involved therein upon each contract of sale of grain for future delivery.

The CHAIRMAN. That came about by reason of the suggested amendment on page 1, that reads as follows:

The term "future delivery" as used herein shall not be held to include any sale of cash grain for deferred shipment.

The suggestion is that if we put that language in on page 1 it will be unnecessary to have this language in on page 2.

Mr. WALLACE. I did not catch that, Mr. Chairman.

The CHAIRMAN. On page 1, in line 11, it is suggested, and I think agreed to by witnesses on both sides who have studied this question, that this change ought to be made: After the word "sorghum" in line 11, insert these words:

The term "future delivery" as used herein shall not be held to include any sale of cash grain for deferred shipment.

Mr. WALLACE. I think there is a reason why you should leave these lines in on page 2, line 21 and line 22.

Senator CAPPER. May I read this memorandum on this particular thing, as the reason for eliminating that?

With these words in it there is nothing to prevent a private individual or a private corporation from buying or selling futures to the public without a tax. As the business is now conducted, futures are sold simply on seven or eight boards of trade; but if the law taxed future trades on exchanges, I think there would be a tendency for these private institutions to go into the business, for they would not be taxed. The amendment was put in by the House committee, as I understand, toward the close of the hearings, on the assumption that unless these words were in it would interfere with a man selling his own grain. They overlooked the fact that subsection (f) of section 4 includes all cash transactions in wheat.

If you want to be entirely sure that this bill does not affect cash transactions, the amendment which has been suggested by the exchanges in section 2, line 11, which is in substance as follows, will clear up that doubt:

"The words 'future delivery' shall not be held to include any sale of cash grain for deferred shipment."

Mr. WALLACE. Well, as that provision read originally I think that it would have prevented an association of producers from selling grain for future delivery which they did not own, which did not exist at that time, unless they went onto a board of trade and sold it. Now, for example, suppose we are a cooperative association of producers and this is the second week in June, and suppose we wish to sell 200,000 bushels of corn this week for delivery next December. We have not got the corn. It does not exist. As that read originally we would have to pay a tax of 20 cents a bushel, unless we went onto a board of trade and sold it. We could not have made a contract, for example, with an exporter here on this eastern coast for 200,000 bushels of corn to be delivered next December, which is a straight contract for future delivery. We would be compelled to do it on the board of trade. That was the reason these words were put in, as suggested, because it seemed to me, as the bill stood, that would absolutely prevent direct dealing for future delivery. That was the only purpose of that—to safeguard that situation.

I do not know how much merit there is to the suggestion that dealings will spring up in out of the way places, but it seems to me that those words "or place of business" would meet that situation. The only point I make is this, to preserve the right of an individual or desire of individuals to make a contract for future delivery for the sale of grain which did not exist but which would exist in time for delivery.

The CHAIRMAN. Without having to go onto the board of trade?

Mr. WALLACE. Without having to go onto the board of trade, and yet it is a contract for future delivery.

Senator KENDRICK. Then you believe the bill is all right as it stands?

Mr. WALLACE. Yes; it seems so to me. I suppose there is some merit in the point Senator Capper makes there. I had thought that that was met by the words "place of business." Now, it could be strengthened a little to cover that point, I should think.

Senator CAPPER. I am not sure about it myself.

Mr. WALLACE. As it stood originally it would force all dealings through the boards of trade unless they paid the tax, and of course that was not the thought at all, but at the same time, it worked out that way.

Senator SMITH. You think that the words "place of business" are comprehensive enough to include wherever this transaction occurs?

Mr. WALLACE. It seems to me so, yes.

Senator SMITH. Otherwise if you left out this provision you would force overtrade to go through a board of trade?

Mr. WALLACE. For future delivery, yes.

Senator SMITH. Where these cooperative associations wish to sell the grain, though it is not in existence, but they are going to make delivery, they would be forced through an exchange?

Mr. WALLACE. Yes.

Senator CAPPER. They suggest here the addition of these words, that "future delivery" shall not be held to include any sale of cash grain for deferred shipment.

Mr. WALLACE. Well, that might cover it; but what do you mean by cash grain?

Senator CAPPER. The actual grain.

Senator SMITH. Is not that terminology now accepted in the trade to mean grain actually existing?

Mr. WALLACE. That is why I asked the question. Just what does cash grain mean?

Senator SMITH. I think they accept cash grain as grain actually in existence, in which there is 30, 60, or 90 day paper, or something like that.

Senator CAPPER. There is another provision I would like to have you complete.

Senator SMITH. Before you go further, Senator Capper, let me ask Mr. Smith is not cash grain considered grain that is actually in existence?

Mr. SMITH. Yes, sir.

Senator SMITH. That was the point the Secretary was asking about.

Senator CAPPER. The original bill in the House, by Congressman Tincher, had what is known as a wire house provision. I will read that provision from the bill:

> No board of trade shall be eligible to designation as a "contract market" if such board of trade or any member thereof operates or controls a privately owned or leased telegraph or telephone line connected with any city, town, or community other than another contract market.

The statement was made here, I think, that that was cut out at your suggestion.

Mr. WALLACE. Well, I think that was cut out because of what I said. If you are approaching the matter from the ethical standpoint, then I think you should eliminate all gambling. If you are considering the matter from the standpoint of getting the best and most stable market for grain, my opinion is that these wire houses rather contribute to that by affording a large market. I do not pretend to have full knowledge of it, but my understanding of it is that the dealers in these country points are largely small speculators, and I think almost invariably they are bulls, because if they have any effect I think it is toward advancing rather than depressing the market. This is true, also, that it gives just that much easier market for hedging transactions.

Senator SMITH. Is it not also true that every wire house is owned by a member of your board and subject to all of its rules and regulations? Is it not really a branch of the board of trade?

Mr. WALLACE. Yes.

Senator SMITH. And that differentiates it from what we call bucket shops, that have no connections at all, but just guess at what the market is going to be, and are responsible to nobody?

Senator HARRISON. If they violate those rules and regulations they would be subject to penalty?

Senator SMITH. Yes.

Senator HARRISON. I recall an investigation of one of those concerns which was operating throughout the South. It developed that in the morning it would send out to its patrons, for instance, word that cotton was going down and advise them to buy when just the contrary would be true.

When the New York Stock Exchange found out that those people were giving the wrong information to those patrons they fired those people from the exchanges. I can understand how, if they are corrupt, they would resort to that kind of practice.

Mr. WALLACE. During seasons when there are large hedging operations it seems to me desirable that we have the widest possible market and greatest possible number of people who are ready to take the other side of the hedge, and anything which would materially reduce the number of people who were on that side would just to that extent make hedging more difficult, I think, and consequently affect the price.

Of course it is not the abolition of the wires that we are trying to get at in either case, but rather the improper use that is made of them.

Senator HARRISON. You can not get at them through the provisions of this bill.

Mr. WALLACE. My thought was that it keeps a supervising agency or board to investigate the use made of private wires, and all of the other factors which enter into the usual board of trade would be investigated during the next year or two and then we would have much better knowledge of what ought to be done. I think that is really the most essential thing of the whole matter, to approach it in a constructive spirit, with the idea of doing away with the things that ought to be done away with in these grain markets and retaining the things that ought to be retained. I know that there are a lot of things we do not know that we ought to know and will know if we have that authority.

Senator SMITH. I think the most vital thing in this bill is the legislation which will provide for membership of cooperative associations on the boards of trade.

Senator KENDRICK. Don't you think the most vital thing in connection with it, Senator, is publicity that will disclose the absence of anything wrong just as it will disclose things that are wrong?

Senator SMITH. I think that would come more rapidly through membership of these cooperative associations, perhaps, than in any other way.

Senator CAPPER. One of the objections presented here to the bill seems to be a fear that this legislation confers autocratic powers on the Government by supervision. Do you see any basis at all in this proposed legislation for that fear?

Mr. WALLACE. Well, of course, I think the bill does confer large powers on the supervising agency, but unless we do that I see no

purpose in passing it. That is, we have got to have power to really get at the manner in which these exchanges are operated, if you are to do anything. It is not conceivable to me that anyone connected with the agriculture of the country, and having a real interest in it, would do a thing that would be really objectionable to people who are making that the basis of criticism. We have got to admit that the prices of grain to-day on the boards of trade are the prices which control; that anything which impairs a free, open operation of these boards of trade would react harmfully on the farmer himself, and any supervising agency which understands that fact is not going to do a thing or impose any unfair rules or regulations that would hamper the free operation of these exchanges.

They would merely try to eliminate the evils, but not interfere with proper operations of the exchanges.

One answer to a great deal of the criticism that is not warranted is in the assurance that you have Government supervision which can get at objectionable practices.

Senator KENDRICK. Do you believe, Mr. Secretary, that there is any justification for the belief that any head of a department of the Government would prefer to meddle and interfere rather than just exercise the authority with discretion?

Mr. WALLACE. No; that is inconceivable to me that anyone should be inclined to do that.

Senator GOODING. The thought that supervision would inspire confidence seems to be very strong, but there is a mystery connected with the boards of trade that so many people do not understand, and there is a thought that the fact that the exchanges were under the supervision of the Government would tend to bring about confidence in the legitimate trading on the exchanges that would have a tendency to remove the criticism.

Senator KENDRICK. Don't you believe, Senator Gooding, that it would also have the effect of bringing the farmers to understand better the operations of the boards of trade, and bringing them into closer sympathy with their market, as soon as the Government supervises it?

Senator GOODING. Certainly. It is education that he needs.

The CHAIRMAN. Is there anything further, Mr. Secretary?

Mr. WALLACE. Not so far as I am concerned. I will leave you this memorandum.

The CHAIRMAN. All right. Thank you.

Mr. Marsh wants to say just a word.

STATEMENT OF MR. BENJAMIN C. MARSH, SECRETARY FARMERS' NATIONAL COUNCIL, RIGGS BUILDING, WASHINGTON, D. C.

Mr. MARSH. Shall I give my name?

The CHAIRMAN. Yes, sir.

Mr. MARSH. Benjamin C. Marsh. I am secretary and director of legislation of the Farmers' National Council, with headquarters in the Riggs Building.

Mr. Chairman and members of the committee, I can not analyze this bill in detail, and can not attempt to, but really want to indorse

the general principles thereof as we understand them and to make two or three specific suggestions.

I am very glad the point has been raised that this is not the last word, because it is our opinion, the farmers who are members of farmers' organizations united with the Farmers' National Council, that we shall have to have commodity marketing of wheat and probably of other grain to protect the farmers from the organized greed which hitherto has gotten most of the profits of agriculture. This is probably just the initial step.

I want to raise the point which I raised in discussing this bill before the House Committee on Agriculture with reference to the use of the taxing power of the Government as a means of regulating dealings in grain. I am not a lawyer, but I can not understand why if the thing should not be done the law should not say and does not say it shall not be done instead of saying there shall be a tax of 20 cents a bushel, or whatever sum it may be. That is a legal question which, of course, you gentlemen, many of you, or several of you, at least, who are lawyers, have studied carefully. It would seem to me a more direct way of handling it.

Senator CAPPER. I did not quite get your objection.

Mr. MARSH. I raise the point—it is not an objection, Senator Capper. I want to make it clear that we indorse the principles of the bill, but I raise the point whether it would not be feasible to say, "You can not do so and so," instead of saying, "if you do so and so there shall be imposed a tax of 20 cents a bushel."

Senator CAPPER. Lawyers tell me that we can not do it that way; that it would be unconstitutional. I can understand their argument on that question from that standpoint, and we wanted to make sure that the bill will be effective.

Mr. MARSH. That is, of course, what we want, and if this is the only effective way, then we are in favor of it.

The CHAIRMAN. I think that explains it, Mr. Marsh. The draftsman of this bill wanted to draft a bill that was constitutional and he figured he could do it by using the taxing power of the Government. It is conceded, I think, by everyone, that unless he can approach it from the standpoint of interstate commerce or the taxing power, it can not be done.

Senator SMITH. We could not reach it through the authority over interstate commerce if it was within the jurisdiction of the State.

The CHAIRMAN. By exercising the taxing power we can regulate the entire business.

Mr. MARSH. If we take the definition of commerce that is provided in the packer control legislation it seems to me that most of these transactions could be considered as commerce. But of course I don't want to enter into that discussion, if that is the real reason.

The CHAIRMAN. I am not saying it could not be done through the instrumentality of interstate commerce. I think some of the bills have been introduced on that theory. It is conceded that we must take one or the other horn of the dilemma, and we have taken this horn in this case.

Mr. MARSH. I want to indorse this measure until we get commodity marketing organized, for that is going to be necessary to protect the farmers, and I doubt if any of the sponsors of the bill feel that this is the last word on it.

It is very important that we should have, it seems to us, some one to administer this bill who is not only in complete sympathy with the struggle of agriculture to get out of the slough of despondency, but also who has the information and the time to enforce it. I can foresee that you are going to have just about the same trouble with the gentlemen who control the grain exchanges as you had with the packers. I don't know whether it is going to be possible to put the control and supervision of the grain exchanges under the Federal Trade Commission or not. That commission, of course, has done the most conspicuous service for the American people of any Federal commission, and whether it would be overloaded by assuming such a task as supervision of the grain exchanges I don't know.

I doubt very much whether the grain exchanges' representatives have suggested the Federal Trade Commission, because their recent investigation of the grain exchange business methods was not very satisfactory to those exchanges. I don't know what the plan of the committee is. Some one suggested a commission instead of the Secretary of Agriculture. I don't know whether you have in mind the creating of a new commission in that matter or whether you plan to use the existing commission. I heard the discussion here that the Attorney General and two other representatives should constitute such a commission, but the Federal Trade Commission, if they did assume it—I think I can speak from my general knowledge of the farmers' opinion and of labor's opinion also—would be very acceptable to the farmers and to the labor forces of the country.

On page 5, line 3, as the bill reads—have not the amendment before me, Mr. Chairman—section (e), the provision is made, and the sense of this would stand even with the amendment suggested by the Secretary of Agriculture, that cooperative associations of producers having adequate financial responsibility should be admitted. Now, I want to ask who is to decide what adequate financial responsibility is. This point may have been raised. If so, I do not want to take your time in discussing it, but it seems to me to be of rather vital importance. I can hardly conceive of a big gambler in wheat who would consider the financial status of any cooperative association of producers as sufficient.

There are always times when their financial responsibility is inadequate. Who is to have authority to determine what constitutes adequate financial responsibility which this bill says the cooperative organization of producers must have before they will be let in?

Senator CAPPER. I think the Secretary of Agriculture would have something to say about that.

Mr. MARSH. That is quite true, but should it not be stated specifically that whoever is in charge, the commission or the Secretary of Agriculture, whoever is in charge of the administration of the law, whether it be the Secretary or a commission, should have authority to say whether an association has adequate financial responsibility or not?

Senator CAPPER. Yes.

Mr. MARSH. Have the facts with reference to putting in this amendment been placed before this committee?

Senator CAPPER. Yes, sir.

Mr. MARSH. They have? Then I will not enter into those

Senator CAPPER. It was discussed yesterday.

Mr. MARSH. Then I won't go over that field again, except to make this request, that if possible it be specifically stated in the bill that the definition of adequate responsibility of associations of producers who shall be admitted in the exchanges shall be completely and finally vested in the governmental agency which has supervision of the exchanges, and which has the administration of this bill.

Those are the only points I want to make, except to state my hope that this bill, with any amendments you think may be necessary, may be very promptly enacted into legislation, and to assure you that we have already done what we could to let the farmers and organized labor as well know the need for just this sort of legislation, and we will continue our effort in that line.

Senator CAPPER. You think the consumer as well as the producer is interested in this legislation?

Mr. MARSH. I think so, Senator Capper. In several capacities I have been working with the American Federation of Labor and what is known as the Transportation Group of Railway Employees. With reference to these great labor organizations, I want to say in not a single case where we have asked them to support legislation which the farmers thought was necessary, particularly immediately necessary to help agriculture, have any of these organizations failed to do so, and they have even come to these hearings and indorsed such legislation, because it is obvious that gambling on the necessities of life and speculation in them can not help the consumer any more than it helps the producer.

I think those are the only points, Mr. Chairman. I thank you very much.

(At 11.55 o'clock a. m., the committee adjourned until Friday, June 10, 1921, at 10.30 o'clock a. m.).

FUTURE TRADING IN GRAIN.

FRIDAY JUNE 10, 1921.

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE AND FORESTRY,
Washington, D. C.

The committee was called to order by the chairman (Senator George W. Norris) at 10.30 o'clock a. m.

Present: Senators Capper, Ladd, and Heflin.

The CHAIRMAN. The hearing was resumed this morning to take the further statement of Mr. Tator, but Mr. Tator is not here.

Before adjourning I think we ought to put this in the record. It is a newspaper clipping from the Washington Herald of this morning. It is headed:

Claims corn king made $500,000 in week.

The article reads as follows:

CHICAGO, *June 9.*—Business may be dull in some lines, but George A. Roberts, the "corn king," of Omaha, nationally known for his spectacular grain deals, is not complaining of hard times. It is said Roberts "cleaned" $500,000 in May wheat last week, according to Lee C. Moser, director of information of the United States Grain Growers (Inc.). Moser also asserted that Roberts had made more than $3,000,000 in grain deals during the war.

The information was given out at a meeting of the executive board of the newly former cooperative farmers' association, which is opposed to short selling. Vigorous denials were made of a report that Bernard M. Baruch and other Wall Street financiers were back of the organization.

I think we had better not definitely close the hearings this morning, but we will adjourn now subject to the call of the chairman.

(Thereupon, at 10.45 o'clock a. m., the committee adjourned subject to the call of the chairman.)

FUTURE TRADING IN GRAIN.

WEDNESDAY, JULY 6, 1921.

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE AND FORESTRY,
Washington, D. C.

The committee was called to order by the chairman (Senator George W. Norris) at 10.30 o'clock a. m.

Present: Senators Norris (chairman), Capper, Kenyon, and Caraway.

The CHAIRMAN. I have a statement signed by Messrs. William Eckhardt, Charles H. Requa, Lowell Hoit, George S. Bridge, and Adolph Kempner.

Senator CARAWAY. Who are they, Mr. Chairman?

The CHAIRMAN. They are connected with the Chicago Board of Trade, I think. They have attached to their statements some exhibits.

Let this statement and their exhibits be printed.

(The statement referred to, together with the exhibits attached thereto, is here printed in full as follows:)

CHICAGO, *June 8, 1921.*

Hon. GEORGE W. NORRIS,
Chairman Committee on Agriculture,
United States Senate, Washington, D. C.

DEAR MR. NORRIS: Are we correct in assuming that the legislation now pending before your committee, i. e., as proposed in H. R. 5676, the Tincher bill, contemplates no specific restriction of the operations of private wires and their branches in agricultural districts?

As individuals in the grain trade, connected with firms and corporations actively engaged in the handling of grain, mainly for its disposition in Chicago and other important markets, we are deeply concerned over the progress of this legislation now before your committee. Our information is based largely on what we read in the public press, and the comment from individuals who have been before your committee, and in pamphlets covering the various phases of this investigation. Right here we would like to refer to a statement made by Congressman Tincher, on page 12, at the hearing on April 25, 26, 27, etc., in which he states—"95 per cent of the pure gambling is done in the private-wire houses which dot every State and make gambling easy. Eliminate them and 95 per cent of the pure gambling is done away with." We take exception to the theory of gambling, because transactions for future delivery are not properly designated as gambling, in fact are bona fide transactions, contemplating the actual delivery and receipt of the property on maturity of the contracts. The percentage of undesirable speculative business which originates in these country branch houses is continuously very large, and is, in our opinion, the basis for most of the unfavorable comment and antagonism toward the exchanges.

It is probably well understood when we refer to private wires, that it means individuals, firms, or corporations, members of stock exchanges, or boards of trade, operating leased wires that run from a given terminal to another, with drops at small towns, and from these small towns information is conveyed to farmers and others in still smaller communities by telephone. Owing to the following reasons it is considered for the best interests of the public at large, as well as the grain exchanges themselves, to curtail their activity in these rural districts.

EXHIBIT B.

BOARD OF TRADE OF THE CITY OF CHICAGO,
PRESIDENT'S OFFICE,
Chicago, February 28, 1921.

BOARD OF DIRECTORS, BOARD OF TRADE OF THE CITY OF CHICAGO,
Chicago, Ill.

GENTLEMEN: It is a matter of common knowledge that the grain exchanges have recently been subjected to much criticism. It is openly charged that many trade practices work to the detriment of both producer and consumer. These complaints are not confined to farmers, but rather include many elements in the grain trade (including members of this and other exchanges), millers, Members of Congress, and public officials.

Many writers heretofore friendly to exchanges have recently been very bitter in their denunciation, charging that the practices of which they complain can all be remedied from within, but allege that the exchanges are doing absolutely nothing in this connection. The officials of the leading exchanges of this country have denied the charges mentioned. That has been the attitude of this board. The denial of these allegations is undoubtedly based upon the conscientious belief that the charges lack foundation.

However, it may be possible that the responsible officials of the several exchanges are too close to the subject, and are prejudiced. It seems to me but fair and just and in exact line with our duty to examine the charges to determine their truth or falsity. Further, if there be of evil in our business it is our duty to meet the situation boldly and apply the cure ourselves, rather than wait for legislative action which may be hasty, ill-tempered, and unwise.

To that end I am herewith enumerating the practices which are claimed to be inimical to the welfare of producer or consumer, or both. I have embraced herein all the so-called evils which have been disclosed to me from any source, including the recent hearing before the House Agricultural Committee at Washington. I respectfully suggest that the board of directors give their serious consideration to the several subjects mentioned, so that within the next 30 days we may formulate a plan of action, based upon an honest and conscientious examination of these complaints.

May I say for your information, I have also submitted practically a similar communication to the advisory committee. This latter committee is made up of some of the best minds of our exchange and I have asked them to give their best independent thought on these questions.

The evils or practices to which I refer are as follows: Over speculation, market manipulation, indemnity transactions, private wire offices in smaller cities and villages in the agricultural district tributary to the terminal markets, trading in future delivery in the distant futures, failure to properly censor market news, crop reports, etc., short selling.

Suggestions as to a proper method of coping with this situation are numerous and come from many sources. Some are of the opinion that we should entirely abandon indemnity transactions and should forbid the operation of so-called country wire offices. Members of Congress, as well as representatives of farmers and trade organizations have suggested that we limit the quantity of speculative transactions for each individual, and the same authorities also urge that we confine trading in future delivery to a short period of time—suggestions varying from 30 to 90 days. As to manipulation, if such practices exist, I think there will be no dissent to my statement that such practices should not only be disapproved, but steps should be taken to render the operation of the manipulator impossible on this or any other exchange.

The subjects embraced in this communication are numerous and I recognize will require careful thought and deliberation. I believe I have condensed in this letter all of the alleged evils of the exchanges . Let us approach the subject with an open mind. If our conscience tells us that any or all of these practices mentioned exist and constitute an injustice to either the producer or consumer, or if we decide such methods are immoral or lacking trade or economic value, then I urge we meet the situation honestly and boldly, and apply the necessary cure.

Respectfully submitted.

J. P. GRIFFIN, *President.*

CHICAGO, *April 12, 1921.*

Mr. J. P. GRIFFIN,
President Chicago Board of Trade:

Your board of directors has given careful and earnest consideration to your letter of February 28, summing up certain alleged trade abuses complained of by legislators and others, something which has been discussed by the directors in official session and informally for some time past, and we beg leave to submit the following report and recommendations:

OVERSPECULATION.

During the war period and for approximately 18 months following the signing of the armistice there was an unprecedented speculation in commodities of all kinds. This activity was not confined to exchanges, but, on the contrary, speculation in nonessentials as well as necessities was in infinitely greater volume where the exchange system did not exist. In view of these general conditions and the state of the public mind, it is not surprising that measurably a similar situation existed on the Chicago Board of Trade. We frankly concede that for a period of years prior to July 1, 1920, at times the trading activity on our exchange was in excess of that warranted by trade requirements such as the needs of hedgers, exporters, millers, grain dealers, and others.

For approximately three years, however, there was no open market in wheat for future delivery, and consequently greater speculation in other commodities. During the period in question the markets were greatly disturbed because of the close adjustment between supply and demand, and more particularly because the buying was transacted by Governments and not by individuals. The necessities of their peoples apparently justified these governmental agencies in entirely ignoring price as a consideration in making their purchases. Consequently it is not surprising that a vast number of investors, having knowledge of this fact, tried to keep in the wake of these huge Government purchases, thus accelerating the general activity of the market. Furthermore, the intemperate and at times seemingly hysterical buying of these European Governments would cause an upheaval in values and keep the market in a constant turmoil.

Speculation on exchanges generally was not more excessive than speculation in commodities not traded in on exchanges, but the public mind was inflamed and misinformed because of the general policy of the public press to write up in a spectacular manner the operations of individuals in the market. In the trade itself it is frequently impossible to distinguish future transactions of a purely commercial character from those of a speculative nature. The press fell into the common error of assuming that the great bulk of the transactions of our members during the period stated was for individuals and speculative. The plain and simple truth is that during this time of intensified demands Governments alone traded in hundreds of millions of bushels of grain for future delivery as a part of their purchases of actual grain for consumptive purposes. In addition, the grain merchants and manufacturers of this country used the future markets on an enormous scale in hedges against both their purchases and sales for domestic distribution as well as for export.

However, candor and sincerity and a desire to frankly present the actual truth in this situation compels us to admit that at times individuals attempted to follow in the wake of the operations of these Governments. This activity on their part for short periods undoubtedly resulted in what might be properly charged as overspeculation. Since July 1, 1920, there has been little if any cause for complaint. Governmental buying has been irregular; in fact, it is apparent that they frequently withheld their buying orders for the purpose of depressing values in order that they might buy more cheaply. The general economic depression which struck the entire world was undeniably the leading reason for decline in commodities traded in on exchanges and elsewhere. The processes of liquidation and deflation were hurried by overproduction and because competing producing countries were underselling us, not only abroad but at home. The buying agents of these European Governments took advantage of this situation and at times for weeks and months entirely withdrew their bids from our market. It is apparent to all thoughtful persons that speculation on the exchanges had nothing whatever to do with the reduction in values of farm products, but rather that this situation was brought about by natural conditions.

At the present time there are huge stocks of grain in commercial channels, in secondary positions, and in the hands of farmers. Much grain now on the farms is sold and will be delivered after the farmer has completed his spring work. It is the speculator and nobody else who has carried and is carrying this load, the farmer being unable or unwilling to carry the grain. Grain merchants, millers, exporters, and all

other so-called middlemen, were unwilling to assume the risk of price fluctuation, and the speculator stepped into the breach and virtually acted as an insurance underwriter for all of these elements of the trade in carrying this huge surplus until a demand would provide an outlet. It is clear there has been no overspeculation since July 1, 1920, and if the exchanges have met with one difficulty it is in finding sufficient number of persons to help the farmer, the grain merchants, and the miller carry these enormous supplies pending an actual consumptive demand. The agitation against exchanges and the charges uttered by uninformed critics have undeniably kept many investors out of the market who otherwise would have been glad on account of the price level, to have become investors in contracts for future delivery, thus carrying the load which others were unable or unwilling to assume.

It must be obvious that to maintain a broad open market we must have traders of all classes, large as well as small. The very situation which makes our exchange the greatest market of its kind in the entire world is that it possesses volume and breadth, constancy and liquidity, thus providing continuously and without interruption a market for producer and consumer.

We do find some trade customs of which advantage could be taken by those intent upon overspeculation. They are herewith enumerated, and as soon as possible the officers and directors of this exchange will bend their best efforts toward the discontinuation of the practices mentioned.

The trade methods referred to are as follows:

Deferred acceptance contracts, which are better known as indemnity transactions, which can be made use of for excessive and spectacular trading.

Extending of credit by commission houses to clients whose transactions are for other than hedging purposes.

It is our firm purpose to prevail upon our membership to so amend our rules as to preclude all transactions in indemnity contracts and at the same time induce other exchanges to follow the same course. While these contracts at times serve a very useful, economic function, nevertheless they are frequently used as a medium of entering the market on a large scale. We have concluded that this latter fact outweighs all of their advantages, and it has led to our conclusion that they should be abolished. We propose to enact rules and regulations which will give our officers proper jurisdiction over spectacular activities of our members. Further, we shall urge an amendment to our rule prohibiting the extending of credit for purely speculative purposes. In addition, we favor the adoption of a rule which will prohibit our members from accepting contracts for future delivery from employees of members of this or other exchanges (excepting where employees themselves are members of the exchange), banks, trust, or insurance companies, or any person occupying a position of trust or having fiduciary relations. These suggested amendments, if carried out, will, in our judgment, entirely eradicate overspeculation within the trade. If other measures are necessary to control those not members of exchanges, appropriate action will follow later.

This exchange will constantly exercise supervision over its market. Its officials will, so far as humanly possible, prevent overspeculation. Their task is a delicate one and fraught with grave dangers if not handled judiciously. Any attempt to impose restrictions or limitations on the volume of trading by individuals might so impair the open market as to bring chaos, not merely to the producer, but to all commmercial and financial interests as well.

Any act which in any respect interferes with constancy and liquidity of the markets for farm products would likely cause complete prostration of business.

MARKET MANIPULATION.

That manipulation of the grain markets has occurrred in the past is an admitted fact. Such manipulation, however, has usually been attempted for the purpose of forcing prices upward. Manipulators have been inspired by the belief that it would be possible for them to buy a greater quantity of contract grades of grain than could be delivered at the time and place of delivery for which the contract called. At times such manipulation has been successful; more often it has failed. The Chicago Board of Trade for years past, has bent its efforts towards preventing such attempts at manipulation with such success that manipulation has practically been eradicated. Lower grades of grain have been made deliverable on contracts, and grain may now be delivered in freight cars on future contracts the last three days of the delivery month, and in emergency every day of the month, instead of only in store, as formerly; furthermore, rules have been passed providing for harsh discipline against manipulators all of which has helped materially to wipe out the evil. During the war period the small

supplies of grain would naturally have encouraged manipulation had it not been for the changes in delivery details, and for the disciplinary measures rigidly enforced. As the result of these corrective measures manipulation was practically unknown. Enforcement of our present rule is all that is needed to prevent such manipulation.

SHORT SELLING.

The belief that the grain markets can be manipulated downward, that short selling can successfully and permanently reduce prices is erroneous, and is based on lack of knowledge of the markets and of economic laws. In an open world's market, such as the grain market, downward manipulation is impossible. with this exception, that a short seller might throw large quantities of sales into the market and break prices while the selling was in progress, or until the prices at which the grain was being offered were disseminated throughout the world, and the world's buyers became aware of the values at which the grain was being offered. Should the short seller offer grain below its legitimate value, the world's buyers would flock to the market with their orders to take his offerings off his hands. The short seller does not add to the supply of grain; on the other hand, he has a legally enforceable contract which he can satisfy only by one of two methods; first, by making a counter purchase in the same market in which the sale was effected, or, secondly, by entering the commercial market, buying the actual grain, and delivering it to his buyer on the contract. The short seller is always at the mercy of the buyer or of the owner of the grain, for he sells something which he does not own and he must buy that something back. If he buys back in the open market, his purchases would naturally advance prices to the extent that his sales had forced declines. If he buys the actual grain to deliver, it would be unreasonable to assume that he could buy this grain below its true legitimate value. The short sale, when made, is not a transaction in cash grain (although it becomes a cash transaction at the maturity of the contract) and since cash grain prices are determined by the present actual supply, the cash grain can not be materially influenced by an offer to sell short for future delivery. Where there is a short sale for future delivery and the delivery month subsequently arrives, the short seller unless he has previously covered in the open market, must then buy cash grain with which to make delivery under his contract. The short seller thus forcibly becomes a cash buyer and any influence of his cash purchase would be for higher and not for lower prices. In reality, speculative short selling is a stabilizing influence in the market, for each short seller creates a buyer in himself. To eliminate short selling would destroy the usefulness of the futures market for hedging purposes, just as surely as would the elimination of speculative buying. Should attempts be made to manipulate the market downward our rule against manipulation would be rigidly enforced, and offenders disciplined. Such manipulation would be unprofitable, for should a seller sell more grain than he could deliver, he would be penalized under our rules to the extent of 5 to 10 per cent of the commercial value of the grain.

The futures market, the basis of which is organized speculation and upon which is built the entire hedging system of price insurance, moves our surplus grain crops with greater economy and efficiency than would be possible by any other method. Realizing the great economic service which is thus performed by organized speculation, we can not consider recommendations for restrictions which would hamper hedging facilities and destroy the economic usefulness of the market.

PRIVATE WIRES.

In considering the question of private-wire offices in small towns and villages, the directors of the Chicago Board of Trade recognize that the private wire is of unquestioned usefulness to the country shipper, but the valuable service accruing to the country shipper is offset by the evil incidental to much incompetent speculation which is encouraged by ill-advised solicitors in country offices. Therefore, the directors of the board of trade believe that permission should be refused to open offices by members in towns of less than 25,000 population, unless such offices are under the direct, personal, local management of a member of this association, and this policy should apply to all offices, new and old.

SHORT TRADING PERIODS.

The directors are not in favor of limiting trading in futures to periods of 60 or 90 days, or to any other period. Short trading periods would be undesirable from the standpoint of the farmer who wishes to hedge his grain, likewise would militate against the grain dealer or distributor who was carrying surplus stocks at the moment un-

salable, and also would preclude sales by millers and manufacturers of the pr for forward delivery, which under present custom they protect by making pu for future delivery. At present, all months are trading months, but by co consent the months of May, July, September, and December are the active t months, for the reason that they serve the most useful purpose in their relation marketing of the various crops.

CENSORSHIP.

The strict censorship of market news is a duty which we can not avoid, nor desire to avoid it. While false and misleading reports are probably no mor merous in the grain business than in any other line of business, still our faciliti transmitting news items of all kinds result in a wide dissemination of these r in a short space of time. It should be remembered, however, that the same f ties are used for the prompt correction of such reports, but momentarily they s times affect the markets. We are in favor of a competent and aggressive censo department, under the paid supervision, if necessary, of some one capable of forming satisfactorily the service of such a department. We believe also that exchanges should adopt the same policy, and that the departments of the va exchanges should act in correlation in order that offenders might be detected disciplined by the exchange or exchanges of which they are members.

(Unanimously adopted by board of directors.)

EXHIBIT C.

CHICAGO, *May 6, 19*

To the board of directors of the Board of Trade of the City of Chicago.

GENTLEMEN: The undersigned, members of this association, respectfully petit that the following proposed amendments to the rules of the Board of Trade of City of Chicago be approved by your honorable body and posted preparatory t ballot vote of the association:

Amend paragraph 2 of section 23 of Rule IV, by striking out the word "wire in the second line thereof and inserting in place thereof "radio system."

Amend lines 6 and 7 of said paragraph 2, by striking out the words and figu "fifteen dollars ($15)" and inserting in lieu thereof "fifty dollars."

Amend line 8 of said paragraph 2, by striking out the words "into which any leas wire or wires run," and inserting in place thereof, "so connected by leased wires radio system."

Amend line 14 of said paragraph 2, by striking out the words "into whose offi the wire, or wires, run," and inserting in place thereof "so connected by leased wir or radio system."

Amend line 19 of said paragraph 2, by striking out "$7.50," and inserting in plac thereof "$25."

So that said second paragraph of section 23 of Rule IV shall read:

"Whenever the market quotations of said board are transmitted over any privat wire or radio system, leased by, or running into the office of, any member of this board, or any firm one of whose partners is a member, or any corporation entitled to any of the privileges of this board, such member, firm, or corporation receiving such quotations shall pay to the secretary of this board, monthly, fifty dollars for each and every office outside of the city of Chicago, so connected by leased wires or radio system and every such member, firm, or corporation shall, from time to time, whenever requested by the secretary, report to him in writing the number and location of his their, or its said offices; and upon the failure of any such member, firm, or corporation to make such report, or to pay any of the moneys herein provided, such moneys to be paid by the member, firm, or corporation so connected by leased wires or radio system, such member, or members, or the officers of any such corporation who are members, shall be suspended by the board of directors until this rule shall have been complied with: *Provided*, That branch offices of members whose main office is located in Chicago may receive the market quotations, as herein provided, for the sum of $25 per month: *Provided further*, That three-fourths of the money derived under and by virtue of the provisions of this section shall become a part of the fund set aside for the liquidation of the bonded indebtedness of the association, as provided in section 2 of Rule X."

Also, amend section 23 of Rule IV by adding thereto the following paragraph:

"On and after the first day of July, 1921, no member of this association transacting business in his own name or in the name of a firm, one at least of whose partners is a member of this association, or in the name of a corporation one at least of whose executive officers is a member of this association, shall furnish by means of any telegraph or telephone wires or radio service the market quotations of this board of trade to any office or place of business located in any city not commonly known or designated as one of the primary or terminal markets in the United States: *Provided, however*, That such service may be furnished to legitimate health or pleasure resorts during their regular seasons:" *Provided further*, That it will be permissible to furnish quotations by means of public classified service, commonly designated CND, or individual market messages, not to exceed five (5) times during any regular business session; which quotations, however, shall not be posted on a blackboard or any other device, so as to be conspicuous and available to the general public."

The undersigned also petition your honorable body that Regulations II and IV of the regulations adopted by the board of directors in accordance with the provisions of section 23, or Rule IV for the better control of our market records and reports, be eliminated, as both of these regulations have been incorporated in the above proposed amendments:

II.

"On and after the 1st day of May, 1911, no member of this association transacting business in his own name or in the name of a firm, one at least of whose partners is a member of this association, or in the name of a corporation, one at least of whose executive officers is a member of the association, shall furnish by means of any telegraph or telephone wires the continuous market quotations of this board of trade to any office or place of business located in any city, town, or village where such service is not furnished at the present time, unless upon written application thereto, the board of directors shall, by a majority vote, grant to said member, firm or corporation permission to supply said continuous market quotations.

"IV.

"The furnishing of said continuous market quotations to any individual, firm, or corporation, where the same are for the personal use and convenience exclusively of the individual, firm, or corporation receiving the same, and where said market quotations are not accessible to the public, or to legitimate health or pleasure resorts during their regular seasons, is not forbidden by these regulations; but the furnishing of such service shall be subject at all times to the approval of the board of directors."

NOTE.—This petition for amendment was signed by over 200 members representing practically every interest on the board.

EXHIBIT D.

To the officers and directors of the Board of Trade of the City of Chicago.

The Chicago Board of Trade has, since its organization, ever been very jealous of its modus operandi. It has been its plain purpose in the past, and we deem it not less so for the future, to set a high standard of commercial integrity. Rules and regulations have been adopted which would keep it in the forefront as an institution desiring to place on the safest possible foundation all trading within its jurisdiction.

There exists to-day no less than in the past, we believe, this same desire to make this Board of Trade of Chicago a leading mart of the world in grain and provisions. This desire has carried with it actual regulations that have protected, justly, the interests of operators.

We do not believe the board of trade has erred in establishing standards unless it be that we have unwisely confined our operations to grain and provisions chiefly. There should naturally flow to it, in our judgment, trading that is now precluded. We refer to cotton and its products, sugar, coffee, metals, lumber, etc.

As a board of trade it could and should sanction within its halls trading in these major lines which call for wide-open markets on safe and secure bases. Perhaps just the failure of the members to see and appreciate the larger fields of trading which legitimately belong to the exchange has led them to unwise and improvident methods of seeking business or gaining new business along old lines. This may be the explanation of the private wire situation as it stands to-day in the country town and smaller cities.

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dealer is serving both the producer and the consumer in instances like this much cheaply than the cooperative dealer can.

cooperative managers are obsessed with the idea of saving the middleman's For instance: We handle tankage, shipping it in in car lots and carrying it in for our farmer trade at all times, at a margin of profit which averages about 15 cent gross. When the farmers' cooperative can secure enough orders they ship car and sell it to the farmers at cost, and between these shipments the farmer must do without or buy from us. This makes us handle the business at a loss, especially if the farmer secures credit from us. He must perforce pay cash to the cooperative.

Possibly this isn't interesting to you, and I really didn't intend to make the letter long. It all comes to this: We do not believe the cooperative business is necessary or justified. We are willing for it to succeed if it can on its merits, but we don't want to be given any special privilege through national legislation. We ask none and they should have none.

Yours, truly,

BOSSEMEYER BROS.,
By E. BOSSEMEYER, Jr.

The CHAIRMAN. I have also a statement by Senator Nelson. He has made several suggestions of amendments which we will consider. We will put in the record Senator Nelson's statement and keep his proposed bill here.

(The statement by Senator Nelson is as follows:)

MEMORANDUM ON H. R. 5676, BY SENATOR NELSON.

These views are submitted respecting H. R. 5676 in the form it passed the House and is now before the Senate Committee on Agriculture. These are the views of the grain merchants, those engaged in the business of marketing grain:

First. The chief objection to the bill as it stands is that it places restrictions and difficulties upon grain marketing, that must materially break down the grain business, increasing its hazards and increasing its costs. The increase in the cost of marketing must reduce to the farmer the price he gets for his grain, and may also increase to the consumer the price he pays for food products.

In the purpose of the bill to prevent artificial manipulation of prices, we are in hearty agreement, but the bill goes way beyond prevention of manipulation, and ruinously interferes with the whole grain marketing machinery.

Grain in the United States is, under normal conditions, marketed in the most economical manner of any conutry in the world, or at any time in history. This results from the development of the delicately balanced and highly sensitive system now existing. The chief factor in this system is the hedge or price insurance. By it the grain merchant protects himself from market fluctuations, avoids the hazards of pure speculation, and is enabled to handle grain on an extremely small margin. By it the marketing burden on grain is reduced to a minimum. Without it the merchant is faced with future price fluctuations and is driven to exact vastly larger handling margins to protect against loss. These larger margins must come from the price the farmer is paid for his grain.

The hedge requires an adequate volume of trading on the exchanges; this volume must be both large and continuous, so the merchant can buy or sell a hedge at will. If this volume of trading, which is a legitimate business enterprise, is violently restricted or destroyed, the hedge is destroyed. Unless changed, this bill does restrict trading and hampers grain marketing in just that way.

The bill does not propose to do away with the present system of grain marketing; it does not offer a new or better system for the old; it proceeds to regulate and control the existing machinery, but in a way that must inevitably disrupt that machinery to the incalculable loss of grain growers.

Grain marketing is one of the greatest business institutions, and covers the Nation. It begins with the country elevator, in touch with the farmer, and ends when the product is placed in the hands of the consumer. The men engaged in it are among the best in the business world, not only for enterprise and judgment, but for business ethics. Competition is exceedingly keen; economies are constantly looked for, and handling margins are extraordinarily small. Suddenly and violently to disrupt this business, so delicately balanced and so widespread, must work havoc to the grain growers of the Nation. The injury to the grain merchants, enormous as it would is trifling compared to the universal and incalculable injury that must come

grain producers, whose ready and relatively stable market has ceased to function normally, and has become vastly more expensive.

A buoyant market means better prices for the farmer. The only thing that makes a buoyant market is an adequate number of buyers. To restrict trading in grain is to reduce the number of buyers, and the market sags. The principle of the bill is to restrict grain trading, a principle we think is bad for business, worse for the farmer.

Second. The bill as it stands gives to the Government unwarranted supervision, direction, and control over private business. We do not object, no good citizen can object, to the passage of laws to guide the general activities of any business. But this bill gives to a Government officer the immediate supervision and direction of an enormous private business. During war time, when public safety demanded it, and to some extent in peace time, Government authority has been extended over private business, but at no time heretofore, either in war time or peace time, has anyone proposed that intimate direction of private business contemplated in this bill. This puts more Government in business and further in business than has ever before been suggested. Notwithstanding the highly specialized character of the business; notwithstanding the experience and sound judgment necessary to manage it; notwithstanding its vastness, grain marketing is subjected to the autocratic control of a Government official, who probably is without personal experience in it. Not only that, but the way business will be conducted will depend upon the personal views of the official. While the office continues, the official will frequently change. No two officials will have the same views. The grain trade will never know what to expect. The personal element will control. At any moment a person may come to the office with a private hobby or possessed of erroneous information and throw the whole grain trade into complete wreckage. As the bill stands, the personal order of this official can wipe out an entire grain market, destroying the facilities which insure to the producer a ready and constant market for his grain, and destroying hundreds of millions in property, involving thousands of grain merchants and grain growers.

If he can destroy one, he can destroy them all. No such autocratic power should ever be given to any official. If it is given him the business will hardly survive. Business simply can not stand the uncertainty, yes, hazard, thus created. Investors will not care to risk their property in any such venture, and prudent men will look elsewhere for employment of their enterprise. Unless this bill is changed in many important particulars, this Government official will become general manager of all the grain exchanges, and of all the grain business in the country, and without responsibility. The property will be that of others; the business will be that of others; the loss that of others. He will be master with all the irresponsibility of a autocrat.

We do not believe that this is either good business or good government. We are, therefore, opposed to this principle of the bill.

Third. Another less important, perhaps incidental, objection is worthy of attention. The bill is drawn in the guise of a tax measure. It is nothing of the kind. It isn't expected to produce a penny in taxes. The sponsors of the bill so state. The purpose is to regulate boards of trade. Then why do it under the guise of a tax measure? Only to evade the Constitution of our country. Our fathers who framed, and those who preserved our form of Government, said it would not be good government for the Federal power thus to assume the direction and control of private business. This bill proposes to evade the Constitution. By throwing over its shoulders the mantle of the taxing power, it hopes to conceal its true character. It poses as a tax measure, disguised to raise revenue to support the Government, when in fact it is forbidden by the fundamental law of our Government, and is not permitted by the spirit of our institutions. We might urge that our courts must decline to sanction such a subterfuge, and will declare such a law without the power of Congress to enact, but we do not do so; we base our objection to the bill on the ground that its terms will do injury rather than good; that its principles are bad both for Government and for business.

While the foregoing sets forth our views on the principles of the bill, nevertheless, recognizing that some legislation is insisted upon, and desiring to do all we reasonably can in a spirit of cooperation, we will undertake to operate under the bill, doing everything we can do to make it a success, if, and only if, the following amendments are incorporated. These represent, as we are advised, the views of the Secretary of Agriculture and his assistants, and he approves their incorporation in the bill. These amendments represent the maximum concessions which, in our judgment, can be made and at the same time preserve the integrity of grain exchanges. They are not satisfactory to us—indeed they are far from that—but they do change the bill in such particulars as make it, in our judgment, one which, if wisely and fairly administered, would probably permit the grain exchanges to function. If so amended, the bill will

be the farthest point to which we can go, but our best efforts will be put forth to make it a success. However, we protest specifically against the inclusion in the bill of that part of section 5, paragraph (d), which provides for limitations upon open speculative lines, and section 5, paragraph (e), in its entirety.

The CHAIRMAN. Is there anything else that anybody desires to put in the record?

Mr. GATES. Mr. Chairman, would it be at all proper for me to request that I have an opportunity to look at the papers submitted by the members of the Chicago Board of Trade, with the idea of possibly answering the statement made by them?

The CHAIRMAN. I think that is all right. At what time can you do that?

Mr. GATES. Possibly after I look it over I could leave a letter from the president of the board who anticipated some such opportunity. If there is anything material in the statement I will ask leave to print a letter from the president of the board.

(Mr. Gates subsequently submitted to the committee the following letters:)

WASHINGTON, D. C., *July 6, 1921.*

To the SENATE COMMITTEE ON AGRICULTURE AND FORESTRY,
United States Senate, Washington, D. C.

SIRS: By the courtesy of your committee and with your permission, I desire to comment on the brief filed with you this morning by five individual members of the grain trade residing in Chicago. I am led to make these comments, because at the time of the presentation of this brief I was the only representative of the grain trade present at these hearings.

The whole question of private or leased wires and their uses has been the subject of two exhaustive investigations, one by the Interstate Commerce Commission, report of which is found in 50 I. C. C.; the other by the Federal Trade Commission, in its investigation of the grain trade, found in volume 5, chapter 3 of that report.

Private or leased wires are the principal avenue through which outside speculative support reaches the grain markets. (Federal Trade Report, vol. 5, p. 102.)

In these hearings the present Secretary of Agriculture has advised against legislative interference with the operation of these wires, for the very practical reason that it would likely react to the detriment of the producer.

The same principle is involved in this private wire controversy as is involved in the treatment of manipulation which the bill before you, H. R. 5676, aims to correct. You aim to correct abuses without destroying the facility of future trading with its attendant advantages. In the treatment of private wires the exchanges are now endeavoring to eliminate such abuses as may exist without destroying a modern facility for transacting business.

Although the arguments of the signers of the brief are based on speculative trading, the real reason back of their objection to private wires is purely competitive. (See Federal Trade Report, vol. 5, pp. 132–138, as follows:)

"The cash-grain element in the board of trade, however, though it may be somewhat jealous of the tendency to a monopoly of outside trading in futures by the wire houses, has felt itself definitely antagonized by the latter only since their development of cash-grain departments." (See p. 132.)

"In fact, however, the cash grain element is doubtless more interested in keeping the private wires away from too close touch with shippers than in the above-mentioned moral incidents of the presence of wire offices in small towns." (See p. 138.)

The objection of the signers of this brief to having leased wires in towns other than terminal markets is due to the fact that the cash grain business originates in small country communities. By eliminating private wires from towns other than terminal markets, they hope to eliminate a competition which furnishes shippers with a higher class of service than they give. This competition gives the grain shipper better service and the grain grower better prices. The contentions in which these same signers were active before the Interstate Commerce Commission were the same as now. The Interstate Commerce Commission recognized the complaint as a purely competitive matter, and delayed its report for several years, or until the telegraph and telephone systems were taken over by the United States Government. These individuals, or some of them, then appealed to the Postmaster General, who asked the Interstate Commerce Commission for its findings. These findings will be found in 50 I. C. C.,

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considers interference with this leased-wire system inexpedient at this time. I desire to strongly indorse the position taken by the Secretary of Agriculture, for to indorse the brief filed with you by the five Chicago individuals would be to urge upon you to take action which would of necessity bring injury to the producer and to the country buyer of grain.

Respectfully submitted.

L. F. GATES

BOARD OF TRADE OF THE CITY OF CHICAGO,
President's Office, July 1, 1921.

MR. LESLIE F. GATES,
Hotel Washington, Washington, D. C.

DEAR MR. GATES: This will confirm receipts of your telegram late yesterday in which you advised that the Senate Agricultural Committee will resume hearings on the Tincher bill on next Tuesday. I also observe in this connection that unknown persons from Chicago will probably file an appearance before the committee with reference to the matter of private wires. As a duly authorized representative of this board during the progress of the hearings on this proposed legislation, I feel it incumbent upon me to outline the official position of our exchange.

The question of private wires, their regulation and control, has been given serious consideration by our board of directors since February 28. Owing to the absence of the writer and other officials at Springfield and Washington for a period of 10 weeks, it has been impossible to devote the requisite time to prepare amendments to our rules to adjust the private wire question, as well as other trade practices which we propose to stamp out or correct. At a meeting of our board of directors on June 21, committees were duly appointed, empowered and directed to prepare drastic amendments to the rules, including a committee to treat with the private wire question. I anticipate these committees will report not later than July 10, and as our rules require 10 days posting before a ballot may be had upon amendments, I should approximate July 25 as the date when these proposed amendments will be enacted into rules.

During the progress of testimony before the House Agricultural Committee and in personal contact with members of that body, I demonstrated, I think, that the private wire question is one purely internal with the exchanges. Not only is our board grappling with the problem, but we are having the aid and cooperation of every other grain exchange in this connection. These facts were presented to the House committee with the result that they were largely convinced that the matter should be left to the exchanges and was not a fit subject for legislation.

We have a great many elements in our membership who operate private wires and who would necessarily be subjected to the provisions of any Congressional enactment. As an illustration of this, practically all of our big bankers, members of stock exchanges, bond houses, members engaged in cotton business, manufacturers, such as Corn Products Co. and Quaker Oats, and similar institutions, meat packers, and many others. The control of private wires by legislation must necessarily be predicated upon this matter being treated as a necessary act in connection with regulating future delivery in grain. Many of these wires do not deal in grain futures at all, and a great majority of them are used for stocks, bonds, cotton and industrial business, having no relation whatever to grain futures. Therefore I should like to have you emphasize to the honorable Senate committee that it is quite futile to attempt to control the private wire matter by legislation, and that exchanges themselves can and will drive out all the evils that may exist in connection with the operation of private wires in the grain business.

I should like to have you also explain very clearly to the members of the Senate Agricultural Committee that this is the official expression of our board and that no member or group of members is authorized or qualified in any respect to make a different representation. Furthermore, it is practically the unanimous view of the membership that the matter be handled in this way. The only discordant element to this official view is a self-constituted group of five or six members who through prejudice or for purely competitive reasons are attempting to drive out the private wire, despite the admitted fact that it is a great modern facility used to expedite business.

Very sincerely, yours,

JOSEPH P. GRIFFIN, *President.*

(Whereupon, at 10.45 o'clock a. m., the committee went into executive session.)

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DATE DUE			